



## **AUTHORIZED ECONOMIC OPERATOR**

### **I. CONDITIONS, REQUIREMENTS AND BENEFITS**

#### **Introduction**

The World Customs Organization (WCO) has designed standards to secure and to facilitate the ever-growing flow of goods in international commerce. These standards are set forth in the SAFE Framework of Standards ("SAFE Framework"), which was adopted by the WCO Council at its 2005 Sessions. A vast majority of WCO Member administrations have expressed the intention to begin the process of implementing the SAFE Framework provisions. In recognition of the urgency of launching this new programme without undue delay, the Council adopted the basic SAFE Framework document which provides the broad overarching principles concerning security and facilitation of the global supply chain. The SAFE Framework incorporates the concept of the Authorized Economic Operator (AEO), and the Council directed the WCO to develop more detailed implementing provisions for the AEO concept.

This document provides baseline technical guidance for the implementation of AEO programmes at the global level between WCO Members and the international trade community. It is designed to serve as a starting point for national AEO programme implementation and supports the effective application of the standards that are outlined in Pillar II (Customs-to-Business Partnerships) of the SAFE Framework. This guidance will provide for long-term application of meaningful standards that will apply to both Customs and AEOs at the global level. These *core international standards* shall form a "baseline" that must be followed by all parties engaged in this effort. This document also allows for the inclusion of *supplemental national criteria* that may be required by any given Customs administration.

Customs administrations recognize that the international trade supply chain is not a discrete identifiable entity. Rather, it is a series of *ad hoc* constructs comprised of players representing varied trade industry segments. Some "supply chains" possess a degree of permanence in that the same cast may play recurring roles on a long-term basis on behalf of a regular importer of goods into a given country. In other "supply chains", participants either change frequently or are assembled for the purpose of executing a single import transaction. Regardless of either the regularity or the temporal nature of any particular supply chain, Customs does appreciate that it does not own any portion of the trade supply chain. The global supply chain is "owned" by the multitudes in the private sector who operate as part of any chain. It is for this reason that the support and participation of private sector business interests is fundamental to the success of the SAFE Framework concept.



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To achieve the ultimate security and facilitation goals of the SAFE Framework, Customs administrations must adopt a transparent and forthcoming attitude in the area of Customs operations that can be further modernized, adjusted and improved to the benefit of the international trade community. In this sense, Customs should proactively consider ways in which they can, based on their current or projected resources, assist the trade in completing their business in the most effective way possible. The international trade and transport communities have experience and knowledge that can benefit Customs administrations in the management of their facilitation and security responsibilities. The private sector should take advantage of this opportunity to forge new and appropriate alliances with Customs, to assist Customs administrations with their security-related mandates.

In order to garner and keep private sector support, it is necessary that there be a clear statement concerning what is entailed in being an AEO. There must be a common understanding of the conditions and requirements of AEO status, which should be specifically enumerated in detail in national AEO programmes. Even more fundamentally, as a first step, there must be clear presentation of the tangible benefits to be realized by participation in the SAFE Framework programme. An appreciation by the private sector of the benefits which may be provided by WCO Member Customs administrations, as well as the benefits of active participation in efforts to strengthen global supply chain security, is a critical element in the private sector being able to justify the additional costs incurred in the process of enhancing existing security measures. Clear and tangible benefits will help provide a needed incentive to business.

It is clear that WCO Members will face certain challenges in starting up AEO programmes in their national Customs administrations, but one thing is certain - now is the time to raise the global profile of Customs as a major player in securing the economic and physical well-being of the nations they serve by protecting the flow of trade throughout the global supply chain. To the extent that WCO Members can develop flexible approaches to AEO programme development, they will be better able to manage growth and necessary amendments to nationally developed AEO programmes. This document should serve as the baseline platform to accomplish this.

Finally, it should be acknowledged that a global system of mutual recognition of AEOs will require some time to accomplish and, in this respect, it has been suggested by WCO Members and the Secretariat that the SAFE Framework be implemented in a progressively “phased approach”, so too should be the expectations for the future application of mutual recognition of Customs’ systems of control for AEO programmes. Customs and business partners stand to gain additional effectiveness in both the security and facilitation of the international supply chain, provided they capture the momentum of the SAFE Framework and take affirmative action to implement its provisions as soon as practicable.

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### Definitions

**Authorized Economic Operator** : defined in the SAFE Framework as, “ ...a party involved in the international movement of goods in whatever function that has been approved by or on behalf of a national Customs administration as complying with WCO or equivalent supply chain security standards. Authorized Economic Operators include inter alia manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors”.

**Shipment or transport conveyance** : includes a maritime cargo container, aircraft container, truck trailer or rail car.

**Third party validator** : any manner of outside (non-Customs) entity that is employed to assist a Customs administration in the accomplishment of security risk assessment reviews and related validation procedures. The authority of a Customs administration to grant AEO status and applicable benefit levels shall not be delegated to a third party validator.

**Authorization** : recognition of AEO status in an AEO programme, based on a structured methodology that includes such processes as review of an applicant’s submitted documentation, physical worksite assets and security processes, in order to determine compliance with the core international standards of the SAFE Framework.

**Phased approach** : step-by-step implementation of the SAFE Framework and of this AEO document by an administration in accordance with its capacity and with the objective to achieve mutual recognition of AEO status.

**Validation** : procedure whereby the supply chain of an AEO, and all relevant processes employed by them to reach that status, are subject to full and transparent review by a Customs administration and/or a Customs-designated third party validator, which may have been specifically deployed by Customs to assist in the actual validation efforts.

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## **Conditions and Requirements for Customs and the Authorized Economic Operator**

The SAFE Framework recognizes the complexity of international supply chains and endorses the application and implementation of security measures based upon risk analysis. Therefore, the SAFE Framework allows for flexibility and the customization of security plans based on an AEO's business model. Certain Customs-identified best security standards and best practices are discussed below. These are the standards, practices and procedures which members of the trade business community aspiring to AEO status are expected to adopt into routine usage, based on risk assessment and AEO business models. Also presented are the expectations for Customs administrations and business. Both are grouped under titled sub-categories.

Customs administrations should not burden the international trade community with different sets of requirements to secure and facilitate international commerce. There should be one set of international Customs standards developed by the WCO that do not duplicate or contradict other recognized intergovernmental security requirements.

Verifiable compliance with security requirements and standards set by other intergovernmental organizations, such as IMO, UNECE, and ICAO, may constitute partial or complete compliance with applicable Customs-identified best security standards and best practices set forth below, to the extent the requirements are identical or comparable.

### **A. Demonstrated Compliance with Customs Requirements**

Customs shall take into account the demonstrated compliance history of a prospective AEO when considering the request for AEO status.

**This element requires that :**

**The AEO :**

- a. not have committed, over a period determined by the national AEO programme, an infringement/offence as defined in national legislation, which would preclude designation as an AEO;
- b. if established for less than the period mentioned in "a", be judged on the basis of available records and information during the application process;
- c. or its designee have a demonstrated record of compliance within the same time period, mentioned in "a".



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### **B. Satisfactory System for Management of Commercial Records**

The AEO shall maintain timely, accurate, complete and verifiable records relating to import and export. Maintenance of verifiable commercial records is an essential element in the security of the international trade supply chain.

**This element requires that :**

**The AEO :**

- a. maintain records systems which permit Customs to conduct any required audit of cargo movements relating both to import and export;
- b. give Customs full access to necessary records, subject to the requirements of national legislation;
- c. have internal records access and control systems which are satisfactory to the approving Customs administration;
- d. appropriately maintain and make available to Customs any authorizations, powers of attorney and licences relevant to the importation or exportation of merchandise;
- e. within any limitations provided in national legislation, properly archive records for later production to Customs;
- f. employ adequate information technology security measures which will protect against access by unauthorized persons.

### **C. Financial Viability**

Financial viability of the AEO is an important indicator of an ability to maintain and improve upon measures to secure the supply chain.

**This element requires that :**

**The AEO :**

- a. have a good financial standing which is sufficient to fulfil its commitments with due regard to the characteristics of the type of business activity.



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### D. Consultation, Co-operation and Communication

Customs, other competent authorities and the AEO, at all levels, international, national and local, should consult regularly on matters of mutual interest, including supply chain security and facilitation measures, in a manner which will not jeopardize enforcement activities. The results of this consultation should contribute to Customs development and maintenance of its risk management strategy.

**This element requires that :**

#### **The AEO :**

- a. provide clearly identified and readily accessible local points of contact or a corporate contact that can arrange immediate access to a local contact for all matters identified as being of compliance and enforcement interest to Customs (cargo bookings, cargo tracking, employee information, etc.);
- b. individually or, as appropriate, via an industry association, engage in an open and continuing mutual exchange of information with Customs, exclusive of information that cannot be released due to law enforcement sensitivities, legal basis or other precedent;
- c. through particular mechanisms set forth in the national AEO programme, notify an appropriate Customs official of any unusual or suspicious cargo documentation or abnormal requests for information on shipments;
- d. through particular mechanisms set forth in the national AEO programme, provide timely notification to Customs and any other relevant authorities when employees discover illegal, suspicious or unaccounted for cargo. Such cargo should be secured, as appropriate.

#### **Customs :**

- a. establish, in consultation with an AEO or its agents, procedures to be followed in the event of queries or suspected Customs offences;
- b. when appropriate and practical, engage in regular consultation at both the national and local level with all parties involved in the international supply chain to discuss matters of mutual interest, including Customs regulations, procedures and requirements for premises and cargo security;
- c. upon request of the AEO, provide specific feedback on the performance of the AEO in addressing security issues related to the international supply chain;
- d. provide the AEO or its agents with telephone numbers where appropriate Customs officials can be contacted.



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### E. Education, Training and Awareness

Customs and AEOs shall develop mechanisms for the education and training of personnel regarding security policies, recognition of deviations from those policies and understanding what actions must be taken in response to security lapses.

**This element requires that :**

**The AEO :**

- a. make every reasonable effort, as logically based on its business model, to educate its personnel, and where appropriate its trading partners, with regard to the risks associated with movements of goods in the international trade supply chain;
- b. provide educational material, expert guidance and appropriate training on the identification of potentially suspect cargo to all relevant personnel involved in the supply chain, such as, security personnel, cargo-handling and cargo-documentation personnel, as well as employees in the shipping and receiving areas to the extent they are within the AEO's control;
- c. keep adequate records of educational methods, guidance provided and training efforts undertaken to document the delivery of such programmes;
- d. make employees aware of the procedures the AEO has in place to identify and report suspicious incidents;
- e. conduct specific training to assist employees in maintaining cargo integrity, recognizing potential internal threats to security and protecting access controls;
- f. upon request and if practicable, make Customs familiar with relevant internal information and security systems and processes, and assist Customs in appropriate training in search methods for those premises, conveyances and business operations the AEO controls.

**Customs :**

- a. undertake efforts to educate affected Customs personnel with regard to the risks associated with movements of goods in the international trade supply chain, in co-operation with AEOs;
- b. make educational material and expert guidance on the identification of potentially suspect cargo available to all relevant Customs security personnel;
- c. notify the AEO's designated contact person of the procedures the Customs administration has in place to identify and respond to suspicious incidents;
- d. conduct specific training to assist personnel in maintaining cargo integrity, recognizing potential threats to security and protecting access controls;



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- e. upon request and if practicable, make an AEO familiar with relevant Customs information and processes, in order to assist in appropriate training and research;
- f. upon request and if practicable, assist the initiatives of the AEO in development and implementation of voluntary company guidelines, security standards, best practices, training, authorization schemes and materials, etc., calculated to raise security awareness and assist in taking measures to minimize security risks;
- g. upon request and if practicable, make educational material and expert guidance on the identification of potentially suspect cargo available to all relevant personnel in an AEO, including for example persons associated with security, cargo handling and cargo documentation. Such guidance should include awareness of risks such as are documented in the WCO Risk Management Guidelines;
- h. assist, upon request and if practicable, the AEO in recognizing potential threats to security from a Customs perspective.

### **F. Information Exchange, Access and Confidentiality**

Customs and AEOs, as part of an overall comprehensive strategy to secure sensitive information, shall develop or enhance the means by which entrusted information is protected against misuse and unauthorized alteration.

**This element requires that :**

#### **The AEO and Customs :**

- a. ensure the confidentiality of commercial and security sensitive information and that information provided be used solely for the purposes for which it was provided;
- b. actively pursue the full and timely implementation of electronic data exchange capability amongst all relevant parties of information used to release merchandise/cargo subject to appropriate data privacy laws. Continued reliance upon documents and hand signatures shall be discouraged;
- c. employ the use of international standards developed regarding electronic data structure, timing for submission and message content. Data elements required for security reasons should be compatible with the AEO's then-existing business practices and limitations and should not require more than the security-related data elements set forth in the SAFE Framework;
- d. work co-operatively toward realizing the commitment of the AEO for the submission and use of advance electronic information for risk assessment purposes.





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### **The AEO :**

- a. in the case of AEO importers, have appropriate procedures in place to ensure that all information used in the clearing of merchandise/cargo is legible, complete and accurate and protected against the exchange, loss or introduction of erroneous information. Similarly, that AEO carriers have procedures in place to ensure the information in the carrier's cargo manifest accurately reflects the information provided to the carrier by the shipper or its agent, and is filed with Customs in a timely manner;
- b. have a documented information security policy and procedures and/or security-related controls, such as firewalls, passwords, etc., in place to protect the AEO's electronic systems from unauthorized access;
- c. have procedures and back-up capabilities in place to protect against the loss of information.

### **Customs :**

- a. familiarize the appropriate AEO staff with relevant requirements of Customs electronic communication systems, and establish specific reporting systems for last-minute consignments and amendments;
- b. as far as possible, promote the adoption by governments of a single window system and procedures which allow for the single transmission to a sole designated point by international supply chain participants, including AEOs, of all relevant transport and cargo data. This transmission to a single designated governmental authority for all official control and release purposes implies a single notification of release;
- c. consider not requiring an AEO to provide paper documents and hand signatures in addition to or in lieu of an electronic transmission. Customs authorities unable to accept data electronically might, for example, accept digital documents, i.e. documents created in a standard format from electronic data, for example, UNeDOCS, submitted by AEOs in lieu of "original" paper documents;
- d. at all times maintain control and jurisdiction over all electronic data provided by AEOs to Customs and establish an effective record retention policy and procedure to ensure the proper destruction of all copies of such data as appropriate, as well as having procedures and back-up capabilities in place to protect against the loss of or unauthorized access to information.



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### G. Cargo Security

Customs and AEOs shall establish and/or bolster measures to ensure that the integrity of cargo is maintained and that access controls are at the highest appropriate level, as well as establishing routine procedures that contribute to the security of cargo.

**This element requires that :**

**The AEO :**

- a. develop and maintain a security policy manual or other tangible guidance by making relevant reference to the security-related guidelines issued by the WCO which contains detailed guidelines on procedures to be followed to preserve the integrity of cargo while in its custody;
- b. ensure that it and/or its business partners in the supply chain with sealing responsibilities have written procedures in place to properly seal and maintain the integrity of the shipment or transport conveyance while in its custody;
- c. ensure that it and/or its business partners employ the use of seals that meet or exceed the then-existing ISO Standard;
- d. ensure that written procedures are developed and utilized that stipulate how seals are to be controlled and affixed to loaded containers, to include procedures for recognizing and reporting compromised seals and/or containers to the Customs administration or the appropriate foreign authority;
- e. for integrity purposes, ensure that only designated personnel distribute container seals and safeguard their appropriate and legitimate use;
- f. have procedures for inspecting the structure of the transport conveyance including the reliability of the access controls. When appropriate to the type of conveyance a seven-point inspection process is recommended :
  - Front wall
  - Left side
  - Right side
  - Floor
  - Ceiling/roof
  - Inside/outside doors
  - Outside/undercarriage;
- g. regularly examine, through particular mechanisms set forth in the national AEO programme, its security and control procedures to ensure that it is difficult for unauthorized persons to gain access to cargo or for authorized persons to manipulate, move or handle it improperly;



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- h. store cargo and transport conveyances in its custody in secure areas and have procedures in place for reporting detected unauthorized entry to cargo and transport conveyance storage areas to appropriate law enforcement officials;
- i. verify the identity of the carrier collecting or delivering cargo and transport conveyances where existing business processes permit and, in the case of there being no such authority, take action to promptly achieve such mandate;
- j. where feasible, compare the cargo with its description on the documents or electronic information to be submitted to Customs for consistency;
- k. establish procedures to manage and control cargo within the cargo storage facility;
- l. establish procedures to positively control all cargo being removed from the storage facility;
- m. establish procedures to manage, secure and control all cargo in its custody during transport and while loading into or unloading from a transport conveyance.

### **Customs** :

- a. where Customs deems it appropriate and legal, and as may be further outlined in a national AEO programme, in recognition of the fact that it may be necessary to examine cargo covertly, invite a representative of the AEO controlling the cargo to be present in the event that cargo is physically inspected or removed for inspection. In the event the AEO is unable to be present for whatever reason, the AEO with responsibility for the security of the cargo should be notified of such an inspection as soon as possible after the event in case of subsequent liability claims.

### **H. Conveyance Security**

Customs and AEOs shall jointly work toward the establishment of effective control regimes, where not already provided for by other national or international regulatory mandate, to ensure that transport conveyances are capable of being effectively secured and maintained.

#### **This element requires that :**

#### **The AEO :**

- a. ensure, to the extent and scope of its authority and responsibility, that all transport conveyances used for the transportation of cargo within its supply chain are capable of being effectively secured;



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- b. secure transport conveyances within its supply chain, to the extent and scope of its ability and responsibility, when left unattended, and check for security breaches upon return;
- c. ensure, to the extent and scope of its authority and responsibility, that all operators of conveyances used for the transportation of cargo are trained to maintain the security of the transport conveyance and the cargo at all times while in its custody;
- d. require operators, as specifically detailed in national AEO programmes, to report any actual or suspicious incident to designated security department staff of both the AEO and Customs for further investigation, as well as to maintain records of these reports, which should be available to Customs, as legal and necessary;
- e. consider potential places of concealment of illegal goods on transport conveyances, ensure that these places are regularly inspected, and secure all internal and external compartments and panels, as appropriate. Records are to be made and maintained following such inspections, indicating the areas inspected;
- f. notify Customs, or other relevant body, of any unusual, suspicious or actual breach of transport conveyance security.

### **Customs** :

- a. advise operators of transport conveyances of potential places of concealment of illegal goods in transport conveyances, where appropriate and legal, as based on their Customs perspective and expertise;
- b. investigate notification of any unusual, suspicious or actual breach of transport conveyance security.

### **I. Premises Security**

Customs, after taking into account the views of AEOs and their necessary compliance with mandatory international standards, shall establish the requirements for the implementation of meaningful Customs-specific security enhancement protocols that secure buildings, as well as ensure the monitoring and controlling of exterior and interior perimeters.

#### **This element requires that :**

#### **The AEO** :

- a. in accordance with its business model and risk analysis, implement security measures and procedures to secure buildings, as well as monitor and control exterior and interior perimeters and prohibit unauthorized access to facilities, transport conveyances, loading docks and cargo areas that may reasonably affect the security of its areas of responsibility in the supply chain. If access control is



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not possible, increased precautions in other security aspects may be needed. Premises security should include the following, as appropriate and based on risk :

- Buildings must be constructed of materials that resist unlawful entry.
  - The integrity of structures must be maintained by periodic inspection and repair.
  - All external and internal windows, gates and fences must be secured with locking devices or alternative access monitoring or control measures.
  - Management or security personnel must control the issuance of all locks and keys.
  - Adequate lighting must be provided inside and outside the facility including the following areas : entrances and exits, cargo handling and storage areas, fence lines and parking areas.
  - Gates through which vehicles and/or personnel enter or exit must be manned, monitored or otherwise controlled. The AEO should assure that vehicles requiring access to restricted facilities are parked in approved and controlled areas, and that their licence plate numbers are furnished to Customs upon request.
  - Only properly identified and authorized persons, vehicles and goods are permitted to access the facilities.
  - Appropriate peripheral and perimeter barriers.
  - Access to document or cargo storage areas is restricted and there are procedures to challenge unauthorized or unidentified persons.
  - There should be appropriate security systems, such as, theft alarm and/or access control systems.
  - Restricted areas should be clearly identified.
- b. as required or upon request, provide Customs with access to security monitoring systems that are utilized for premises security.

### **Customs :**

- a. aside from any legal right to access certain locations and related information, seek partnership arrangements with AEOs that provide for access to security monitoring systems and not be denied access to information necessary for a Customs administration to carry out enforcement activities;
- b. permit AEOs to implement alternative means of compliance to satisfy specific security requirements not practical or compatible with a particular AEO's business model to the extent the alternative means provide the same or equivalent security benefits.



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### J. Personnel Security

Customs and AEOs shall, based on their authorities and competencies, screen the background of prospective employees to the extent legally possible. In addition, they shall prohibit unauthorized access to facilities, transport conveyances, loading docks and cargo areas that may reasonably affect the security of those areas in the supply chain under their responsibility.

**This element requires that :**

**The AEO :**

- a. take all reasonable precautions when recruiting new staff to verify that they are not previously convicted of security-related, Customs or other criminal offences, to the extent permitted by national legislation;
- b. conduct periodic or for cause background checks on employees working in security sensitive positions;
- c. have employee identification procedures, and require that all employees carry proper company issued identification that uniquely identifies the individual employee and organization;
- d. have procedures in place to identify, record and deal with unauthorized or unidentified persons, such as photo identification and sign-in registers for visitors and vendors at all points of entry;
- e. have procedures in place to expeditiously remove identification, premises and information systems access for employees whose employment has been terminated.

**Customs :**

- a. have identification procedures, and require that all officers carry proper identification that uniquely identifies the individual officer and the organization he/she represents;
- b. as necessary, ensure that persons operating access controls are able to independently verify the identification produced by a Customs officer;
- c. have procedures in place to expeditiously remove identification, premises and information systems access for employees/officers whose employment has been terminated;
- d. subject to national legislation, seek agreements with AEOs that provide for access to information about specified personnel, including sub-contractors, working at AEO facilities for prolonged periods.



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### **K. Trading Partner Security**

Customs shall establish AEO requirements and mechanisms whereby the security of the global supply chain can be bolstered through the commitment of trading partners to voluntarily increase their security measures, as may be more fully set forth in supplemental national criteria.

**This element requires that :**

**The AEO :**

- a. if necessary, when entering into negotiated contractual arrangements with a trading partner, encourage the other contracting party to assess and enhance its supply chain security and, to the extent practical for its business model, include such language in those contractual arrangements. In addition, the AEO is to retain documentation in support of this aspect to demonstrate its efforts to ensure that its trading partners are meeting these requirements and make this information available to Customs upon request;
- b. review relevant commercial information relating to the other contracting party before entering into contractual relations.

### **L. Crisis Management and Incident Recovery**

In order to minimize the impact of a disaster or terrorist incident, crisis management and recovery procedures should include advance planning and establishment of processes to operate in such extraordinary circumstances.

**This element requires that :**

**The AEO and Customs :**

- a. develop and document, in conjunction with the appropriate authorities, where advisable or necessary, contingency plans for emergency security situations and for disaster or terrorist incident recovery;
- b. include periodic training of employees and testing of emergency contingency plans.

### **M. Measurement, Analyses and Improvement**

The AEO and Customs should plan and implement monitoring, measurement, analysis and improvement processes in order to :

- assess consistency with these guidelines;
- ensure integrity and adequacy of the security management system;



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- identify potential areas for improving the security management system in order to enhance supply chain security.

**This element requires that :**

**The AEO :**

- a. regularly undertake, as specifically outlined in the national AEO programme, assessments of the security risks in its operations and take appropriate measures to mitigate those risks;
- b. establish and conduct regular self-assessments of its security management system;
- c. fully document the self-assessment procedure and the responsible parties;
- d. include in the review assessment results, feedback from the designated parties and recommendations for possible enhancements to be incorporated in a plan for the forthcoming period to ensure continued adequacy of the security management system.

### **Benefits to the Authorized Economic Operator**

The SAFE Framework is premised upon four core elements, the last of these relating to benefits that Customs will provide to businesses meeting minimum supply chain security standards and best practices (SAFE Framework, Section 1.3). Further, Section 3.3 of the SAFE Framework offers certain specific examples for consideration. Ultimately, effective implementation of the SAFE Framework will best be realized by striking a balance between trade security and trade facilitation. Tangible benefits for Authorized Economic Operators are a measure of such balance.

Due to possible limitations imposed by national legislation, any benefits within Customs control must necessarily be defined and offered by individual Members. Pillar 2, Standard 3 of the SAFE Framework provides that such benefits be tangible and documented. These benefits should be enhancements above and beyond the normal procedures utilized when working with non-Authorized Economic Operators and not result in a loss of access to normal procedures already in place.

The ultimate goal of the SAFE Framework is implementation of a core set of WCO international standards. These international standards may be supplemented by national requirements. An attempt should be made to keep benefits apace with requirements as SAFE participants phase in these programmes. It is important that benefits be allowed to evolve during implementation. Capacity building being offered to Members should address their ability to deliver benefits, such as facilitation mechanisms for lower risk cargo, and the enhancement of global supply chain security.

Benefits should be meaningful, measurable and reportable. The examples of benefits included in this section are separated into categories and offered for consideration by





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administrations. These do not establish a required set of benefits that all administrations must offer - they are an indicative list of example benefits that are subject to specific Customs consideration, offering and approval. These examples are drawn from several sources including WCO studies, Conventions, certain operational programmes of WCO Member administrations, the regulations of the European Union, and input from the trade community.

### **A. Measures to expedite cargo release, reduce transit time and lower storage costs :**

1. A reduced data set for cargo release;
2. Expedited processing and release of shipments;
3. Minimum number of cargo security inspections;
4. Priority use of non-intrusive inspection techniques when examination is required;
5. Reduction of certain fees or charges for AEOs in good standing;
6. Keeping Customs offices open on a continuous basis when a tangible need for such coverage has been specifically identified.

### **B. Providing access to information of value to AEO participants :**

1. Names and contact information for other AEO participants, with the consent of those participants;
2. List of all countries adopting the SAFE Framework;
3. List of recognized security standards and best practices.

### **C. Special measures relating to periods of trade disruption or elevated threat level :**

1. Accord priority processing by Customs during period of elevated threat conditions;
2. Priority processing following an incident requiring the closing and re-opening of ports and/or borders;
3. Priority in exporting to affected countries after an incident.

### **D. First consideration for participation in any new cargo processing programmes :**

1. Account-based processing rather than transaction-by-transaction clearance of accounts;
2. Simplified post-entry or post-clearance programmes;
3. Eligibility for self-audit or reduced audit programmes;
4. Expedited processes to resolve post-entry or post-clearance inquiries;
5. Favourable mitigation relief from Customs assessments of liquidated damages or non-criminal administrative penalties, except for fraud;
6. Increased paperless processing of commercial shipments for both export and import;
7. Priority response to requests for rulings from national Customs authorities;
8. Eligibility for remote Customs clearance procedures;
9. Ability to file a corrective action or disclosure prior to the initiation of a Customs non-criminal administrative penalty procedure, except for fraud;
10. No penalties or liquidated damages imposed for late payment of duties, with only interest accruing.



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### II. VALIDATION AND AUTHORIZATION

#### Introduction

The SAFE Framework contains the mandate for design of validation and authorization procedures. The SAFE Framework, Pillar 2, Standard 3 (Customs-to-Business Partnerships), provides as follows :

*The Customs administration, together with representatives from the trade community, will design validation processes or quality accreditation [authorization] procedures that offer incentives to businesses through their status as Authorized Economic Operators.*

Since the obligation for design of these procedures lies with the individual WCO Members agreeing to implement the SAFE Framework, the goal of these validation and authorization provisions is to provide guidance and possible direction to WCO Members.

Customs administrations should design and implement authorization and validation procedures that conform to the standards described in the SAFE Framework document, taking into account the good practices established in existing national Customs/Business supply chain security management programmes. The authorization process should take into account the different levels of compliance that an Authorized Economic Operator might achieve. The core standards are set forth in the Conditions, Requirements and Benefits portion of this document. The implementation process should include incentive-based benefits and should take into account the differences in risk rating with regard to the various activities and roles undertaken within the international trade supply chain.

This portion of the document is divided into major topic areas with discussion text and specific requirements. An outline of a possible process to manage an AEO application is attached as an Annex.

#### Application and Authorization

The Authorized Economic Operator will commit itself to an application and authorization process with its national Customs administration to implement supply chain security standards as set out in the SAFE Framework. These standards must be incorporated into the AEO's business practices and procedures. It will establish a self-assessment process to manage and monitor performance. In order to execute effective self-assessment, the AEO shall appoint an individual within its management structure to be responsible for all supply chain security measures with regard to a specific national AEO programme. This nominated person shall also be responsible for communication with the Customs administration regarding the AEO approval system and maintenance of the standards. Authorization will be granted by the national Customs administration after validation of the fulfilment of AEO conditions and requirements.

The systems and procedures which govern the establishment and maintenance of AEO status are, by reference, incorporated into this document in their entirety.



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The conditions and requirements established in the Conditions, Requirements and Benefits portion of this document must be fulfilled within prescribed time limits determined by the authorizing Customs administration. The time periods may vary according to the particular role being played by the applicant and other specifications that will be determined by the complexity and nature of the trade being undertaken.

The AEO authorization will be valid until suspended, revoked or withdrawn for a material failure to abide by the terms and conditions of the authorization. National AEO programmes need to include a means of appeal against decisions by Customs administrations regarding AEO authorization including denial, suspension, revocation or withdrawal.

All standards and programmes implementing the SAFE Framework shall be voluntary, and Customs administrations shall not require that non-AEOs participate.

Customs administrations shall respond to an AEO application within a reasonable period of time to be established in the national AEO programme. The AEO programme may also include provisions regarding single AEO applications from groups of related companies.

### Validation Procedure

The security procedures and Customs-identified best practices contained in the SAFE Framework require a validation process to be undertaken by Customs. While Customs shall retain ultimate authority for accrediting an AEO and for suspending or revoking such authorization, it may decide to designate third party validators to perform the assessment of an AEO applicant's compliance with the SAFE Framework security standards and best practices and/or for validating such compliance. Third party validators should possess appropriate experience in certification systems, knowledge of the supply chain security standards, sufficient and appropriate knowledge of operations of the various economic and business sectors and have appropriate resources for conducting timely validations. Use of third party validators should not inhibit mutual recognition by Customs administrations of AEO authorizations under individual national AEO programmes. The AEO should still have the option to request validation by the Customs administration directly.

Customs administrations should not burden the international trade community with different sets of requirements to secure and facilitate commerce.

The Customs administration or the designated third party validator will ensure that personnel designated to carry out the validation procedure are trained and qualified.

Any information obtained in the course of the validation procedure and within the scope of the AEO Authorization is confidential between the Customs administration and/or the designated third party validator and the individual AEO and may be used solely for the purpose for which it was provided.

A system of feedback and gradual improvement should be built into the authorization and validation arrangements made by the Customs administrations and AEO.



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This monitoring process may consist of audits based on risk or cause and, where appropriate, random spot checks by Customs or the designated third party validator, if applicable. The AEO will also maintain, and have available for inspection, necessary documentation as set out in the national AEO programme's AEO authorization requirements on the security procedures being undertaken or utilized by the AEO.

### Review and Maintenance

Regular communication and joint reviews between Customs and AEO will be carried out in order to maintain the level of compliance and, where feasible, to identify possible measures to enhance the level of security. Such reviews will assist AEOs in making amendments to their security programme as soon as possible and will provide the Customs administration with a mechanism for maintaining the operating standard of an AEO.

As part of the authorization process and in order to assure regular communication and facilitate the validation process, the AEO may, in conformance with the criteria set out in the national AEO programme, be requested by the Customs administration to complete periodic reports capturing the information that the AEO should provide according to the security standards set out in the portion of this document regarding Conditions, Requirements and Benefits.

In order to establish and maintain an effective AEO authorization programme, Customs administrations may find it useful to hold regular seminars to discuss the development of their national AEO programme, to identify and address common problems, and to share good practices.

### Future Developments

The standardized approach to AEO authorization provides a solid platform for development of international systems of mutual recognition of AEO status at bilateral, sub-regional, regional and, in the future, global levels. Such systems will involve a WCO Member Customs administration recognizing the AEO authorization system in another WCO Member with an operational AEO programme as being equivalent to its own. This will afford the AEO the same benefits and therefore improve predictability and efficiency of operation in all countries applying the AEO standards.

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### ANNEX

#### **Process outline for businesses involved in the handling of cargo within the international trade supply chain**

1. The Applicant and Customs should acknowledge that this is a voluntary programme and agree to implement core requirements pertaining to the role of an Authorized Economic Operator (AEO) as described in the SAFE Framework.
2. The Applicant shall implement, in conformance with its business model and risk analysis, the systems, procedures, conditions and requirements established in the Conditions, Requirements and Benefits portion of this document.
3. The Applicant and Customs shall work cooperatively toward realizing the commitment of the Applicant for the submission and use of advance electronic information for risk assessment purposes.
4. Customs administrations will consider the following indicative list of quality criteria when reviewing applications from businesses wishing to become accredited as AEOs :
  - Compliance record with Customs and other relevant enforcement authorities
  - Adherence to relevant laws and regulations
  - Evidence of having been established in accordance with national laws
  - Information indicating permanency of business premises
  - Evidence of existing quality assurance systems
  - Absence of criminal convictions of a relevant nature amongst senior personnel
  - Evidence of adequate company controls on staff, premises, equipment and other assets.
5. The Customs administration must validate that the applicant satisfies all SAFE Framework requirements relating to Authorized Economic Operator status before Authorization will be granted. The Customs administration may designate a third party validator to perform the assessment of compliance with the security standards and best practices. However, decisions regarding authorization and validation will in such instances remain the purview of the Customs administration. The Customs administration and the designated third party validator, if applicable, shall complete validation within a reasonable period of time.
6. Any information obtained in the course of the validation procedure and within the scope of the Authorization is confidential between the Customs administration and the individual AEO and may be used solely for the purpose for which it was provided.
7. Upon the validation of the AEO's successful implementation of required measures, the Applicant shall be duly authorized as an Authorized Economic Operator by the national Customs administration.



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8. The validation process will be performed by designated officials of an authorizing Customs administration or by representatives of a designated third party validator and shall be based on internationally recognized principles of audit and inspection.
9. The Applicant should maintain the records specified in the applicable national Customs laws and regulations concerning commercial transactions relating to goods being traded in the international trade supply chain and agrees to make these available to the Customs administration for the purpose of validation and periodic audit.
10. The integrity of systems and procedures being applied under the Authorization should be verified by periodic reviews conducted by the Customs administration or on its behalf, regular communication between designated officials and, where appropriate, random spot checks and visits.
11. The AEO authorization will be valid unless it is revoked, withdrawn or suspended for a material failure to abide by the terms and conditions of the Authorization.

Examples of when authorization may be revoked, withdrawn or suspended :

- If the applicant or AEO does not abide by the terms and conditions of the authorization;
  - If the company and/or its officers fail to observe criminal or civil laws governing the conduct of such companies, and/or the nature of pending or unresolved legal proceedings involving those parties would preclude direct involvement with Customs administrations;
  - If the company fails to make available to the Customs administration the appropriate documentation and/or information access concerning personnel, company premises, equipment and assets as provided in the Conditions, Requirements and Benefits portion of this document.
12. The authorization validation and monitoring processes can be adjusted at the discretion of the national Customs administration, especially if changes occur in either the risk rating of the trade in which the Applicant is engaged, or the performance of the Applicant. However, any such adjustment should only be done after having solicited input from the AEO and affording it the opportunity to review and comment on the reasons presented by the Customs administration.

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### **III. MUTUAL RECOGNITION**

#### **Introduction**

The Resolution on the SAFE Framework calls on those WCO Members and Customs or Economic Unions, which have notified the WCO of their affirmative intention to implement the SAFE Framework, to do so as soon as practicable in accordance with the WCO Members or Customs or Economic Union capacity. Further, it calls upon Customs administrations to work with each other to develop mechanisms for mutual recognition of AEO validations and authorizations, and Customs control results and other mechanisms that may be needed to eliminate or reduce redundant or duplicated validation and authorization efforts.

Mutual recognition is a broad concept whereby an action or decision taken or an authorization that has been properly granted by one Customs administration is recognized and accepted by another Customs administration. The standardized approach to Authorized Economic Operator authorization provides a solid platform for long-term development of international systems of mutual recognition of AEO status at bilateral, sub-regional, regional and, in the future, global levels.

In order for a system of mutual recognition to work it is essential that :

- There be an agreed set of common standards that include sufficiently robust “action” provisions for both Customs and AEOs;
- Standards are applied in a uniform manner so that one Customs administration may have confidence in the authorization of another;
- If the certification process is delegated to a designated authority by an authorizing Customs administration, there shall be an agreed upon mechanism and standards for that authority;
- Legislation to enable the implementation of a mutual recognition system is in place.

In the context of the SAFE Framework, mutual recognition relates to three distinct areas :

- **Pillar 2, Standard 3** - Authorization : Customs should agree on mutual recognition of Authorized Economic Operator status.
- **Pillar 1, Standard 6** - Advance Electronic Information : Economic operators should also benefit from mutual recognition of digital certificates, allowing the economic operator to submit all electronic messages to those Customs administrations having agreed to recognize this certificate.
- **Pillar 1, Standard 7** - Targeting and Communication : Customs should provide for joint targeting and screening, the use of standardized sets of targeting criteria, and compatible communication and/or information exchange mechanisms; these elements will assist in the future development of a system of mutual recognition of controls.



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Mutual recognition can be a means to avoid duplication of security controls and can greatly contribute to the facilitation and control of goods moving in the international supply chain. This portion of the AEO document examines options for establishment of mutual recognition. However, it is recognized that decisions on mutual recognition will be made by individual Customs administrations and/or unions.

### **Mutual Recognition of Authorized Economic Operators**

In the portions of this document relating to Conditions, Requirements and Benefits and Validation and Authorization, guidance is provided for administrations to introduce the mutual recognition concept in line with the SAFE Framework. A model application and authorization form is also provided in the Annex to the Validation and Authorization portion. These arrangements provide an excellent foundation for the eventual development of an international system of mutual recognition. It must be acknowledged that a global system of mutual recognition of AEO status will require some time to accomplish and, in this respect, it is noted that just as it has been suggested by WCO Members and the Secretariat that the SAFE Framework be implemented in a progressively “phased approach”, so too should be the expectations for the future application of mutual recognition of Customs systems of control for partnership programmes. Bilateral, sub-regional or regional initiatives are being developed as useful stepping stones toward such a global system.

### **Mutual Recognition of Customs Controls**

This is an area which presents a challenge to Customs administrations. Although there is a history of mutual administrative assistance and information sharing regarding Customs infractions, the requirements of the SAFE Framework covering the more routine sharing of information and control results are relatively new.

In the SAFE Framework, the elements which may contribute towards a system of mutual recognition of controls cover a wide range of Customs activities, such as the WCO Global Information and Intelligence Strategy, WCO Standardized Risk Assessments (SRAs), WCO General High Risk Indicator Document and the WCO Handbook for Customs Officers on Risk Indicators. Further, the Johannesburg Convention and Model Bilateral Agreement contain provisions which can support joint screening activities.

It is recommended that under the guidance and leadership of the High Level Strategic Group (HLSG), a group of experts be formed, for a limited period if practicable, with the specific objective of identifying all aspects of Customs activity which might be included in mutual control recognition. The group would also be expected to make proposals to the HLSG concerning the best means of development and delivery of an international scheme concerning mutual control recognition.





## **Role for the WCO**

The Resolution on the SAFE Framework recognizes the value of periodic evaluation meetings. Such meetings could provide a platform for advancing mutual recognition of AEO status as well as control results and digital certificates. Members should be encouraged by the HLSG and the Secretariat to actively participate in such meetings, providing reports of pilot projects and progress made towards the goal of mutual recognition. It may well be desirable for the WCO to participate in selected pilot projects. Such projects could assist the learning process and identify practical problems for analysis and discussion. The WCO Secretariat could then develop appropriate guidance materials to assist implementation.

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