

ANNEX CUSTMS-1: AUTHORISED ECONOMIC OPERATORS

Article 1 Criteria for and treatment of Authorised Economic Operators

1. The specified criteria for qualification as an Authorised Economic Operator ("AEO") referred to in Article CUSTMS.9 [Authorised Economic Operators] of this Agreement, shall be established by the Parties' laws, regulations or procedures. The specified criteria, which shall be published, shall include:

(a) the absence of any serious infringement or repeated infringements of customs legislation and taxation rules, including no record of serious criminal offences relating to the economic activity of the applicant;

(b) the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;

(c) financial solvency which shall be deemed to be proven where the applicant has good financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned; and

(d) appropriate security and safety standards which shall be considered as fulfilled where the applicant demonstrates that he or she maintains appropriate measures to ensure the security and safety of the international supply chain including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his or her business partners.

2. The specified criteria for qualification as an AEO shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail. Those criteria shall allow small and medium-sized enterprises to qualify as AEOs.

3. The trade partnership programme referred to in Article CUSTMS.9 [Authorised Economic Operators] of this Agreement shall include the following treatment:

(a) taking the AEO status granted by the other Party favourably into account in its risk assessment to reduce inspections or controls and in other security and safety-related measures;

(b) giving priority to the inspection of consignments covered by exit or entry summary declarations lodged by an AEO, if the customs authority decides to proceed with an inspection;

(c) taking the AEO status granted by the other Party into account with a view to treating the AEO as a secure and safe partner when assessing requirements concerning business partners for applicants under its own Programme; and

(d) endeavouring to establish a joint business continuity mechanism to respond to disruptions in trade flows due to increases in security alerts levels, border closures and/or natural disasters, hazardous emergencies or other major incidents where priority cargos related to AEOs could be facilitated and expedited to the extent possible by the customs authorities of the Parties.

Article 2 Mutual recognition and responsibility for implementation

1. AEO Status under the trade partnership programmes of the Union and the United Kingdom are recognised to be compatible, and holders of the AEO status granted under each programme shall be treated in a manner consistent with Article 4.
2. The trade partnership programmes concerned are:
 - a) The European Union Authorised Economic operator (security and safety). (point (b) of Article 38(2) UCC); and
 - b) The United Kingdom Authorised Economic Operator programme (safety and security) (sub-paragraph (b) of Article 38(2) UCC, as retained in United Kingdom domestic law.)
3. The customs authorities, as defined in Article OTH.1(b) [Definitions] ("customs authorities"), are responsible for the implementation of the provisions in this Annex.

Article 3 Compatibility

1. The Parties shall cooperate to maintain compatibility of the standards applied to each of their trade partnership programmes with respect to the following matters:
 - (a) the application process for granting the AEO status to operators;
 - (b) the assessment of AEO status applications;
 - (c) the granting of the AEO status; and
 - (d) the managing, monitoring, suspension and re-assessment, and revocation of the AEO status.

The Parties shall ensure that their customs authorities monitor AEOs' compliance with the relevant conditions and criteria.

2. The Parties shall complete a joint work programme setting out a minimum number of joint validations of holders of the AEO status granted under each trade partnership programme that must be completed by the end of 2021, at the latest.
3. The Parties shall ensure that their trade partnership programmes operate within the relevant standards of the SAFE Framework.

Article 4 Treatment of status holders

1. Each Party shall provide comparable treatment to that given to AEOs under the other Party's trade partnership programme. This treatment shall include in particular the treatment set out in paragraph 3 of Article 1.
2. Each Party may suspend the treatment referred to in paragraph 3 of Article 1 to an AEO under the other Party's trade partnership programme under this Agreement if that AEO ceases to comply with the legal requirements. Such suspension shall be promptly communicated to the other customs authority together with any additional information regarding the basis for suspension, as appropriate.

3. Each Party shall promptly inform the other Party in cases where it identifies any irregularity committed by an AEO authorised by the other customs authority to allow it to take an informed decision on the possible revocation or suspension of the membership of the operator concerned.

Article 5 Exchange of information and communication

1. The Parties shall endeavour to communicate effectively with each other in the implementation of this Agreement. They shall exchange information and foster communication regarding their trade partnership programmes, in particular by:

(a) providing updates on the operation and development of their trade partnership programmes in a timely manner;

(b) engaging in mutually beneficial exchanges of information regarding supply chain security;

(c) designating the contact points for their respective trade partnership programmes and providing the contact details for those contact points to the other Party; and

(d) facilitating effective inter-agency communication between the European Commission's Directorate-General for Taxation and Customs Union and Her Majesty's Revenue and Customs to enhance risk management practices under their respective trade partnership programmes with respect to supply chain security on the part of AEOs.

2. Information and related data shall be exchanged in a systematic manner by electronic means.

3. The data to be exchanged regarding AEOs shall include:

(a) name;

(b) address;

(c) status of membership;

(d) validation or authorisation date;

(e) suspensions and revocations;

(f) the unique authorisation or identification number (in a form mutually determined by the customs authorities); and

(g) other details that may be mutually determined between the customs authorities, subject, where applicable, to any necessary safeguards.

The exchange of data shall commence with the entry into force of this Agreement.

4. The Parties shall use their best endeavours to establish, within six months of entry into force of this Agreement, an arrangement for fully automated exchange of the data referred to in paragraph 3, and in any event shall implement such an arrangement no later than one year after the entry into force of this Agreement.

Article 6 Treatment of data

Any exchange of information between the Parties under this Annex shall be *mutatis mutandis* subject to the confidentiality and protection of information set out in Article 12 [Information exchange and confidentiality] of the Protocol on Mutual Administrative Assistance in Customs matters.

Article 7 Consultation and Review

The Trade Specialised Committee on Customs Cooperation and Rules of Origin shall review the implementation of the provisions of this Annex regularly. That review shall include:

- (a) joint validations of AEOs granted status by each Party to identify strengths and weaknesses in implementing this Annex;
- (b) exchanges of views on data to be shared and treatment of operators.

Article 8 Suspension and discontinuation

1. A Party may pursue the procedure set out in paragraph 2 in the event that either of the following circumstances arise:
 - a) Before or within three months of entry into force of this Agreement the other Party has made material changes to the legal provisions referred to in paragraph 2 of Article 2 that were assessed in order to establish that the trade partnership programmes are compatible, such that the compatibility required for recognition under paragraph 1 of Article 2 has ceased to exist;
 - b) The provisions under paragraph 2 of Article 5 [Exchange of information and communication] are not operational.
2. In the event that either of the circumstances set out in points (a) or (b) of paragraph 1 arise, a Party may suspend the recognition provided for in paragraph 1 of Article 2 [Mutual recognition and responsibility for implementation] 60 days after notifying the other Party of their intention.
3. Where a party gives notice of its intention to suspend the recognition provided for in paragraph 1 of Article 2 [Mutual recognition and responsibility for implementation] in accordance with paragraph 2 of this Article, the other Party may request consultations in the Trade Specialised Committee on Customs Cooperation and Rules of Origin. These consultations shall be held within 60 days of the request.
4. A Party may pursue the procedure set out in paragraph 5 in the event that either of the following circumstances arise:
 - a) The other Party changes its AEO programme or its implementation of this programme such that the compatibility required for recognition under paragraph 1 of Article 2 [Mutual recognition and responsibility for implementation] has ceased to exist;
 - b) The joint validations provided for in paragraph 2 of Article 3 [Compatibility] do not confirm the compatibility of the Parties' respective AEO programmes.

5. In the event that either of the circumstances set out in points (a) or (b) of paragraph 4 arise, a Party may request consultations with the other Party in the framework of the Trade Specialised Committee on Customs Cooperation and Rules of Origin. These consultations shall be held within 60 days from the request. If 90 days after the request a Party still considers that the compatibility required for recognition under paragraph 1 of Article 2 [Mutual recognition and responsibility for implementation] has ceased to exist, it may notify the other Party of its intention to suspend recognition of its programme. Suspension shall take effect 30 days after notification.