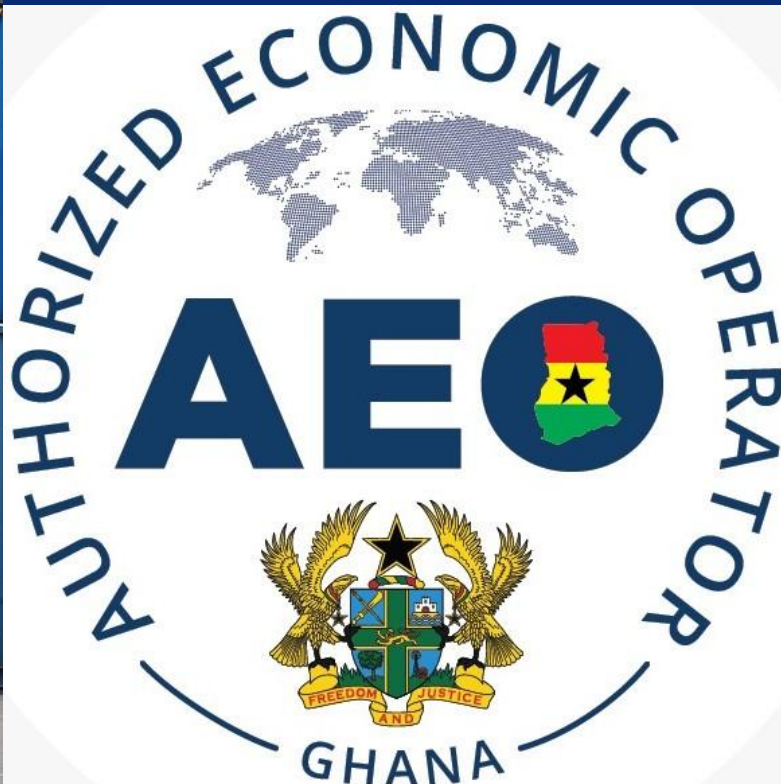




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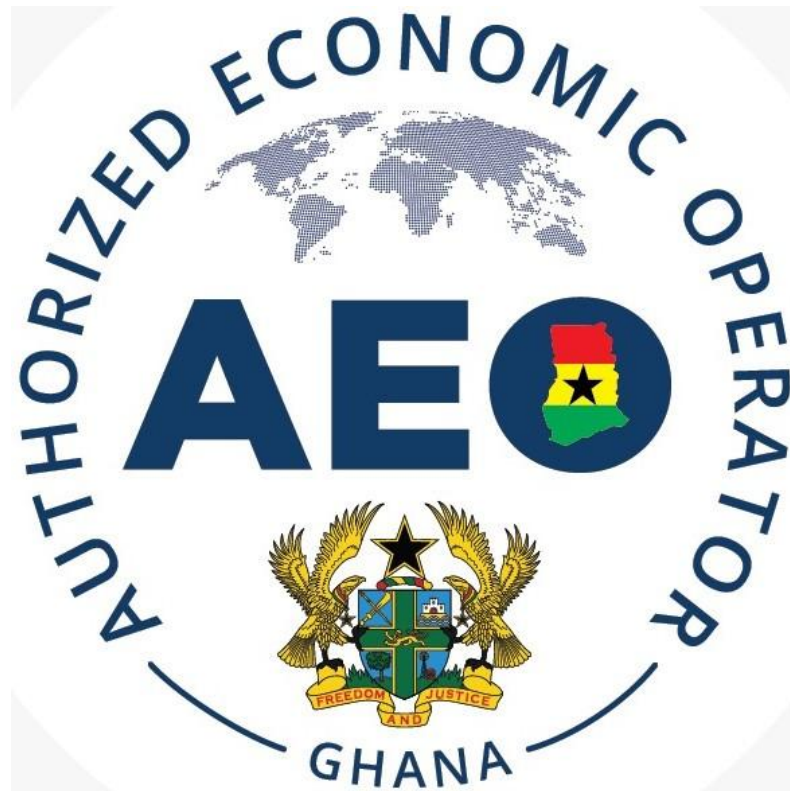
Authorized Economic Operator Manual



2024

**Ghana Revenue Authority
(Customs Division)**

The Authorized Economic Operator (AEO)



Manual

FORWARD

The Authorized Economic Operator (AEO) program is a World Customs Organization (WCO) Trade Facilitation Tool under the SAFE Framework of Standards (Pillar II). It is a Customs program designed to ensure that goods entering the international supply chain are secure and in compliance with customs regulations.

Ghana, being a member of the WCO has adopted the program. It has provided for it under Section 8 of the Customs Act, 2015 (Act 891) and its supporting Regulation 15 of the Customs Regulations, 2016 (L.I. 2248).

To implement the program, Customs has partnered with Other Government Agencies (OGAs) to certify qualifying economic operators in the international trade supply chain. Customs has instituted a bank of rewards scheme for operators who voluntarily accede to the program with benefits including faster clearance of goods at the ports.

The Authorized Economic Operator (AEO) Manual will serve as a guide and reference material for officers and other stakeholders for the effective implementation of the program.

The program will enhance customs efficiency in the face of increasing volumes of trade and the increasing vulnerabilities of the international trade supply chain to security threats thereby ensuring compliance with international best practices.

Staff and the general public are invited to read the manual thoroughly and follow the information and guidelines provided therein.

DISCLAIMER

This manual only serves as a guideline, which details the necessary steps, procedures and other matters regarding the AEO implementation in Ghana. It is not to substitute any obligation(s), processes or liabilities thereof provided for under the laws of Ghana, including the Ghana Revenue Authority Act, 2009 (Act 791), Customs Act 2015, (Act 891), Revenue Administration Act 2016 (Act 915), and any other relevant legislations, enactments and amendments to existing legislations. Hence, any provision(s) of the Manual found to be inconsistent with the provision(s) of the above-mentioned enactments, to the extent of the inconsistency, shall be deemed null and void.

Wherever this occurs, only the portion of the text found inconsistent shall be void and not the entire document.

Every effort has been made to capture the information in this manual as accurately as possible. However, if any information stated herein is found to be factually inaccurate, outdated or inconsistent with any verified source of legislation, such error must be regarded as purely administrative and would not confer any legal responsibility or liability on GRA. Such errors so proven and the texts as they stand, shall not confer on the user any legal rights, neither would they commit GRA to any legal obligations, outside of the body of legislation governing the conduct of GRA and its officials and assigns”.

Where he/his is used, it refers to both male and female under this document.

ACKNOWLEDGEMENT

The Authorized Economic Operator (AEO) manual was developed by a team of officers drawn from different units of the Ghana Revenue Authority.

Special thanks go to the project team and all who provided valuable technical input and guidelines in various workshops.

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LIST OF ACRONYMS AND ABBREVIATIONS

AEO	Authorized Economic Operator
CCTV	Close Circuit Television System
ECOWAS	Economic Community of West African State
GRA	Ghana Revenue Authority
IPR	Intellectual Property Rights
LSE	Large Scale Enterprise
MRA	Mutual Recognition Agreement
RBA	Risk – Base Audit
SAQ	Self–Assessment Questionnaire
TIN	Taxpayer Identification Number
WCO	World Customs Organization

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1.0 GENERAL INFORMATION

1.1 Introduction

1.1.1 Introduction

This Manual has been developed for the information and use by GRA Customs Division, Other Government Agencies (OGAs) and Economic Operators.

In preparing the Manual, information relating to the safety and security criterion, which is so vital in the context of the international supply chain, was considered.

The main reason for including this criterion is that it will raise the awareness of the Customs Division, OGAs and economic operators of the extent and nature of the requirements that must be met, for AEO status.

The Manual clarifies and amplifies, with examples, the various criteria for AEO status that are set down in the legal provisions relating to;

- i. the application and certification process for acquiring AEO status; and
- ii. the management and monitoring of the operations of the AEO program.

1.1.2 Legal Provision

The legal provisions governing the Authorized Economic Operator (AEO) program are provided under section 8 of the Customs Act, 2015 (Act 891), regulation 15 of the Customs Regulations, 2016 (LI 2248), as well as Article 7.7 of the World Trade Organization (WTO) Agreement on Trade Facilitation and the Revised Kyoto Convention.

1.1.3 Purpose of the Manual

It is to provide information and assistance to the Customs Division, OGAs and economic operators. The Manual constitutes a single document covering the processes, procedures and tools under the AEO program such as providing the criteria for obtaining AEO status, the preparation of the AEO application(s), Self-Assessment Questionnaire (SAQ), management and monitoring of the operations of AEO certified economic operators.

1.1.4 The focus of the Manual

The primary focus of the Manual is to;

- i. Ensure common understanding and uniform application of the law and the various requirements relating to the AEO concept,
- ii. Facilitate the correct and harmonized application of the legal provisions and the various requirements of the AEO program,
- iii. Guarantee transparency to and equal treatment of all applicants, and
- iv. Assist in the preparation of the application and in ensuring the provision of all supporting documents, for AEO status.

1.2 The SAFE Framework and AEO Program

1.2.1 SAFE Framework

Customs operations, in the years leading up to the terrorist attacks of September 11, 2001 (9/11) in the United States of America (USA), focused less on national security threats and were not a primary concern of the World Customs Organization (WCO).

However, after the events of 9/11, Customs programs in the USA and the rest of the world were modified to place a stronger emphasis on safety and security within the international supply chain ecosystem. To ensure trade facilitation, the WCO called for the ratification of the Revised Kyoto Convention (RKC) on the Simplification and Harmonization of

Customs Procedures and introduced a new set of protocols for cargo security called the SAFE Framework of Standards to Secure and Facilitate Trade at its Council Session in Brussels in June 2005.

This unique international instrument ushered in modern supply chain security standards and heralded the beginning of a new approach to the end-to-end management of goods moving across borders while recognizing the significance of a closer partnership between Customs and business.

1.2.2 Core Elements of the SAFE Framework

The SAFE Framework consists of five core elements;

1. It harmonizes the advance electronic cargo information requirements on inbound, outbound and transit shipments.
2. Each country that joins the SAFE Framework commits to employing a consistent risk management approach to address security threats.
3. It requires that at the reasonable request of the receiving nation, based upon a comparable risk targeting methodology, the sending nation's Customs administration will perform an outbound inspection of high-risk cargo and/or transport conveyances, preferably using non-intrusive detection equipment such as large-scale X-ray machines and radiation detectors.
4. The SAFE Framework suggests benefits that Customs will provide to businesses that meet minimal supply chain security standards and best practices.
5. It promotes close cooperation with other governmental agencies representing different regulatory areas, to keep societies safe and secure while facilitating the movement of goods.

1.2.3 Three Pillars of the SAFE Framework

The SAFE Framework, based on the previously described five core elements, rests on the three pillars:

- i. Customs-to-Customs network arrangements;
- ii. Customs-to-Business partnerships; and
- iii. Customs-to-other Government Agencies co-operation.

The pillars involve a set of standards that are consolidated to guarantee ease of understanding and rapid international implementation.

Within the SAFE Framework, several standards are included that can assist any Customs administration in meeting these new challenges.

Pillar II of the SAFE Framework of Standards provides for the establishment of the AEO Program. This sets forth the criteria by which businesses in the supply chain can obtain authorized status as a security partner.

Such criteria address issues such as threat assessment, a security plan adapted to the assessed threats, a communication plan, and procedural measures to prevent irregular or undocumented goods entering the international supply chain, physical security of buildings and premises used as loading or warehousing sites, security of cargo, means of transport, personnel vetting, and protection of information systems.

1.2.4 AEO Program

In general terms, an AEO is a party involved in the international movement of goods, in whatever function, that has been approved by a Customs administration as complying with WCO or equivalent supply chain standards. In its broadest manifestation, AEOs can include, *inter alia*, manufacturers, exporters, importers, carriers, warehouse keepers,

customs brokers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators and distributors.

The AEO program is currently by legislation open to all economic operators in the supply chain as outlined under the WCO guidelines. It is to be especially noted that AEO status is available to any economic operator regardless of its size, including micro, small and medium-sized enterprises (MSME).

It is also emphasized that there is no legal obligation for an economic operator to become an AEO. It is basically, a matter of choice on the part of any economic operator, based on its own specific situation; thus AEO is a voluntary program. In addition, there is no legal obligation for an AEO to require its business partners to obtain AEO status.

As a result of acquiring AEO status, Customs throughout the trading world will trust economic operators and perform less or minimal control interventions, including inspections of goods imported or exported. This benefits many of the stakeholders involved in the international movement of goods, such as forwarders and carriers. Customs also benefit, as scarce administrative and inspection capacity can be targeted at the cargo of unknown and potentially unsafe economic operators.

1.2.5 The AEO status

An AEO status is envisaged for economic operators established in Ghana who would like to benefit from the various simplifications specifically provided for under the customs legislation, and from particular facilitations related to customs controls when the goods enter or leave the customs territory of Ghana. The criteria for granting of an AEO include:

- i. A record of compliance with customs requirements,

- ii. Satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- iii. Proven financial solvency.
- iv. Appropriate safety and security standards.

1.2.6 AEO Application Process

An operator who applies and strives to obtain the AEO status should be aware that he has to be “in control” of his business. This means that depending on the type of the AEO certificate and the company's business activities and business model, the company should have in place appropriate organizational measures in the fields related to the AEO criteria, aiming at ensuring that risks linked to its customs activities may be identified and avoided and/or minimized.

“In control” can be looked at in different ways. In a general way, it means that an operator has:

1. Clear vision, mission and strategy for his activities in particular with relation to international supply chain;
2. Implemented appropriate organizational measures and business processes;
3. A system of appropriate internal controls;
4. An evaluation system which leads to adjustments and refining the organizational structure and procedures where necessary.

Before submitting the application, it is very important that economic operators take the following steps:

1. *Nomination of a contact person* – during the different stages of the application process, various departments/people will be engaged in the process and the legislation requires the economic operator to appoint a person from within the business, to act as a contact point for Customs. However, it is recommended that this

is done even before the formal submission of the application and, particularly within large businesses, a person is appointed at a senior level, with the authority to take decisions, to supervise and co-ordinate the application process;

2. *Preliminary information from Customs* - an early exchange of information and discussion with Customs will save a lot of time once the formal AEO procedure starts. In order to start exchanging information with Customs, applicants can contact the AEO Secretariat at the Customs Headquarters;
3. *Consolidation of the information of different units/departments* – upon review of the main documents and preparation of the information required it is advisable that responsible units are aware of it and their specific responsibility regarding the overall AEO requirements/process;
4. *Carry out a self-assessment against the AEO criteria* – applicants are required to complete the AEO SAQ which Customs is required to use in assessing the readiness of the economic operator to meet the AEO criteria. Before completing the SAQ, the applicant is advised to look at the SAQ Explanatory Notes and use them when answering the questions provided in the SAQ;
5. *Finalization of the relevant documents* – as a result of all the previous steps it might be necessary to further amend the application and the other documents. Though some additional time might be required, it is more efficient if recommendations made by Customs are taken into account at this stage;
6. *Formal submission of the application* – applicants shall submit a formal application in a prescribed form to Customs.

1.2.7 Who can become an AEO?

A person who is engaged in the international supply chain as specified in section 8 of the Customs Act 2015, (Act 891) and Regulation 15 of LI

2248. That person must have a registered business in Ghana and have met all other statutory requirements.

1.2.8 Stakeholders in an international supply chain

The international end-to-end supply chain from a customs perspective represents the process, e.g. from manufacturing goods destined for export until delivery of the goods to the buyer in another customs territory. The international supply chain is not a discrete identifiable entity. It is a series of ad hoc constructs comprised of economic operators representing various trade industry segments.

In practice, many businesses can have more than one role in a particular supply chain and will fulfil more than one of the responsibilities related to these roles. When applying for AEO status, the applicant must ensure his application includes the customs-related activities for all their responsibilities within the international supply chain.

The various stakeholders and their different responsibilities in the international supply chain, relevant from a customs perspective which can apply for an AEO status are mainly the following:

a. Manufacturer

In the framework of the international supply chain, a manufacturer is an economic operator who in the course of his business produces goods destined for export.

A manufacturer's responsibility in the international supply chain can be, *inter alia*:

- ensure a safe and secure manufacturing process for its products;
- ensure a safe and secure supply of its products to its clients;
- ensure the correct application of customs rules with regard to the origin of the goods.

b. Exporter

An exporter is the person on whose behalf the export declaration is made and who is the owner of the goods or has a similar right of disposal over

them at the time when the declaration is accepted. Where the ownership or a similar right of disposal over the goods belongs to a person established outside Ghana pursuant to the contract on which the export is based, the exporter shall be considered to be the contracting party established in Ghana.

An exporter's responsibility in the international supply chain can be, *inter alia*:

- responsible for the correctness of the export declaration and for its timely lodgement, if the export declaration is lodged by the exporter;
- responsible for lodging an export declaration which, when required, contains the data elements of the exit summary declaration;
- apply the legal export formalities in accordance with the customs rules, including commercial policy measures and where appropriate, export duties;
- ensure a secure and safe supply of the goods to the carrier or freight forwarder or customs house agent.

c. Freight forwarder

A freight forwarder organizes the transportation of goods in international trade on behalf of an exporter, an importer or another person. In some cases, the freight forwarding applicant acts as a carrier and issues its own transport contract, e.g. bill of lading. A freight forwarder's typical activity can include: obtaining, checking and preparing documentation to meet customs requirements.

A freight forwarder's responsibility in the international supply chain can be, *inter alia*:

- apply the rules on transport formalities
- ensure, if relevant, a secure and safe transport of goods

- apply, where appropriate, the rules on summary declarations in accordance with the legislation

d. Warehouse keepers and other storage facility operators

A warehouse-keeper is a person authorized to operate a private bonded warehouse or a person operating a temporary storage facility, or a free zone facility.

A warehouse keeper's responsibility in the international supply chain can be, *inter alia*:

- ensure that while the goods are in a private bonded warehouse or in temporary storage, they are not removed from customs supervision and fulfil other obligations that arise from the storage of goods covered by the customs warehousing procedure or by the rules on temporary storage;
- comply with the particular conditions specified in the authorization for the private bonded warehouse or for the temporary storage facility;
- provide adequate protection of the storage area against external intrusion;
- provide adequate protection against unauthorized access to, substitution of and tampering with the goods.

e. Customs house agent

A customs house agent referred to in this AEO Manual means a person licensed in accordance with the Customs Act, 2015 (Act 891) to carry out customs business on behalf of a person who is involved in the international supply chain (e.g. an importer or an exporter) or on his own behalf (direct representation).

A customs house agent's responsibility in the international supply chain can be, *inter alia*:

- i. apply the necessary provisions in accordance with the customs rules specific for the type of representation, for placing the goods under a customs procedure;
- ii. responsible for the correctness of the customs or summary declaration and for its timely lodgement.
- iii. the payment of customs duties and other taxes

f. Carrier

A carrier is the person actually transporting the goods or who has undertaken a contract and issued e.g. a bill of lading or air waybill, for the actual carriage of the goods.

A carrier's responsibility in the international supply chain can be, *inter alia*:

- i. ensure a secure and safe transport of goods while in the carrier's custody, in particular avoiding unauthorized access to and tampering with the means of transport and the goods being transported;
- ii. provide timely transport documentation as required by law;
- iii. apply the necessary legal formalities in accordance with customs law;
- iv. apply, where appropriate, the rules on summary declarations in accordance with the legislation.

g. Importer

An importer is an economic operator who is making or on whose behalf an import declaration is made. However, from a more general trade perspective and in particular, with a view to the substance of the AEO program, the definition of an importer should be considered from a broader perspective (the person making the import declaration is not necessarily always the person who also places the goods on the market).

An importer's responsibility in the international supply chain can be, *inter alia*:

- i. responsible in his dealings with Customs, for assigning the goods presented to customs-approved treatment or use;
- ii. responsible for the correctness of the declaration and that it will be lodged in time;
- iii. where the importer is the person lodging the entry summary declaration, is responsible for the correct application of the rules on summary declarations;
- iv. apply the necessary legal formalities in accordance with customs rules relevant to the import of goods;
- v. ensure a secure and safe receipt of goods, in particular avoiding unauthorized access to and tampering with the goods.

1.3 AEO Eligibility Criteria

Economic operators need to fulfil all AEO criteria to obtain the relevant authorization. The criteria which are deemed to be met by an AEO are provided below:

N°	Eligibility Criteria
1	The applicant is a registered Business in Ghana and has a Taxpayer Identification Number (TIN)
2	The applicant files tax returns
3	The applicant has been in existence continuously for a minimum period of 3 years
4	The applicant must comply with Ghanaian customs and tax legislation
5	The operations of the applicant must comply with the relevant legislation in Ghana
6	The applicant must be financially solvent

N°	Eligibility Criteria
7	The applicant must have good accounting records and provide audited accounts
8	The applicant must provide evidence of appropriate training for its staff on safety and security standards
9	The applicant must provide evidence of payment of SSNIT contributions of its employees
10	<p>The applicant must commit by contract to ensure adequate provision of security for:</p> <ul style="list-style-type: none"> a. Staff- Healthy and hygienic working environment and the requisite working apparel (if needed) b. Facilities-protecting sensitive data and documents, and using construction materials that resist unlawful entry and intrusion c. Logistics- requisite resources for effective and efficient operations
11	The applicant must have a computerized accounting system, secured and accessible to the Revenue Authority
12	<p>Applicant must have a system of internal control for:</p> <ul style="list-style-type: none"> a. Archiving files to include physical and electronic archiving and access logs b. Inventory management to include inventory tracking, order management, warehouse management, and audit c. Disaster management (i.e., fire outbreak, force majeure, etc) to include a business continuity plan, disaster recovery plan, and emergency response management d. Risk Management to include regular assessment, training programs, and incident reporting system e. Operational controls to include standard operating procedures, performance monitoring and quality control

N°	Eligibility Criteria
13	Applicants must provide a fully completed and accurate SAQ and fulfil all the above criteria

1.4 AEO Benefits

The AEO certificate is issued to the applicant, after a thorough audit of his business, and not to his business partners, thus the status granted relates to the economic operator itself and applies to its own business activities and he is the only one entitled to receive the benefits.

1.4.1 Prior notification of routine controls

The proper officer may notify the AEO when the consignment has been selected for further customs control, where the AEO lodges a BOE before the arrival/departure of the goods into/from Ghana. This prior notification might be particularly important for an AEO operating at the ports as it will allow them to better plan their business.

This notice shall only be provided where it does not jeopardize the control to be carried out. Customs may, however, carry out physical control even where the AEO has not been notified.

1.4.2 Simplification of Customs Documentary Procedures

In general, when submitting a Customs Declaration, applicants are allowed to use the post-entry for any modification to the original entry. However, in the case of AEOs, where modifications to declarations are required, the applicant may be allowed to proceed with the clearance procedure and may be granted 48 hours to make the adjustments.

1.4.3 Faster processing of customs clearance

An AEO is subject to minimal customs controls than other economic operators. However, Customs may subject an AEO shipment to additional controls in order to take into account a specific threat, or control obligations set out in other legislation (i.e. related to product safety etc.). Where customs control is required, the AEO status can also be favourably taken into account.

1.4.4 Priority treatment of consignments if selected for control

When a customs declaration lodged by an AEO is selected for examination, the necessary controls shall be carried out as a matter of priority. This means that AEO declarations shall be given priority over non-AEO declarations.

1.4.5 Choice of the place of control

An AEO can request that customs control be sent to an alternative location which might offer a shorter delay and/or lower costs. However, this is subject to individual agreements with Customs. The selected place for control should always allow Customs to carry out the necessary controls and not jeopardize the results of the control.

1.4.6 Indirect benefits

AEO may derive benefits that are not directly linked to the customs side of his business. Although they are considered as 'indirect' benefits, and therefore not explicitly reflected in the legislation, they are important as they may have a highly positive effect on the overall business of the AEO.

The AEO approach helps economic operators to analyse in detail all their related international supply chain processes. Activities of all concerned departments are generally assessed during the preparation of the AEO

application. In most cases, efficiency and cooperation between these services are optimized in order to obtain more transparency and visibility of the supply chain.

Investments by operators in increasing their safety and security standards may yield 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 examples of the indirect benefits are as follows:

- i. Reduced theft and losses;
- ii. Fewer delayed shipments;
- iii. Improved planning;
- iv. Improved customer service;
- v. Improved customer loyalty;
- vi. Improved inventory management
- vii. Improved employee commitment;
- viii. Reduced safety and security incidents;
- ix. Lower inspection costs of suppliers and increased cooperation;
- x. Reduced crime and vandalism;
- xi. Improved security and communication between supply chain partners.

1.4.7 Recognized as a Secure and Safe Business Partner

An AEO who meets the safety and security criterion is considered to be a secure and safe partner in the supply chain. This means that the AEO does everything in his power to reduce threats in the supply chains where he is involved. The AEO status, including the possibility to use the AEO logo enhances his reputation.

An economic operator who wants to use the AEO Logo has to request permission from Customs.

The AEO logo can be used under the following conditions:

- i. An economic operator having a valid AEO certificate;
- ii. Acquire an authorization from Customs following an application for use of the logo;
- iii. Authorization for use can be withdrawn when Customs has reasons to believe there is abuse.

1.4.8 Improved relations with Customs

The AEO Secretariat within Customs shall be the designated contact point for all AEO enquiries and support.

1.4.9 Improved Relations with other Government Authorities

Customs shall collaborate with other government agencies and relevant stakeholders to enhance the recognition of the AEO status. The agencies shall include the following:

- a. The Veterinary Services Department;
- b. The National Petroleum Authority;
- c. The Food and Drugs Authority;
- d. The Ghana Standards Authority;
- e. The Narcotics Control Board;
- f. The National Investigation Bureau
- g. The Animals Production Directorate;
- h. The Minerals Commission
- i. The Plant Protection and Regulatory Services Directorate;
- j. The Environment Protection Agency;
- k. The National Petroleum Authority;
- l. The Ghana Ports and Harbours Authority;

- m. The Ghana Airports Company Limited;
- n. The National Security Council;
- o. The Ghana Association of Bankers;
- p. Any other government agency or private sector that the Commissioner General may determine

1.5 Mutual recognition

The WCO SAFE Framework of Standards identifies mutual recognition as a key element to strengthen and facilitate the end-to-end security of international supply chains and as a useful tool to avoid duplication of security and compliance controls.

A Mutual Recognition Agreement (MRA) can contribute greatly to facilitation and risk management and grant substantial, comparable and, where possible, reciprocal benefits to reliable international partners and economic operators.

The objective of mutual recognition of AEO status or equivalent is that one customs administration recognizes the validation findings and AEO authorizations issued under the other program, and agrees to provide substantial, comparable and, where possible, reciprocal benefits/facilitations to the mutually recognized AEOs.

1.5.1 Identification and validation of AEOs

For customs administrations to deliver the benefits associated with mutual recognition it is imperative that they can recognize each other's AEOs.

AEO will be identified by a unique number allocated by Customs. Other customs administrations have similar processes whereby their 'customs registration' number is used to validate their AEOs. However, the

characters used and the length of such ‘trader identification numbers can differ from country to country or country to a customs union.

1.5.2 Specific benefits

All benefits accorded AEOs locally certified would also be granted to other AEOs from countries with whom Ghana has MRA and vice versa.

2.0 AEO ELIGIBILITY CRITERIA

2.1 Appropriate record of compliance with customs requirements

Record of compliance with customs requirements shall be considered as appropriate if over the last three years preceding the submission of the application, no serious infringement or repeated infringements of customs rules have been committed by any of the following persons:

- i. The applicant,
- ii. The persons in charge of the applicant's company or exercising control over its management,
- iii. If applicable, the applicant's legal representative in customs matters, (i.e., the person responsible in the applicant's company for customs matters.)

Nevertheless, the record of compliance with customs requirements may be considered appropriate if Customs considers any infringement to be of negligible importance, in relation to the number or size of the customs-related operations, and not creating doubts concerning the good faith of the applicant.

If the persons exercising control over the applicant company are established or resident in a third country, Customs shall assess compliance with that criterion based on the records and information that are available to them.

The following common specific circumstances are recommended to be taken into account in the evaluation of the infringement by Customs:

- i. The assessment of the compliance should cover all customs activities of the applicant;

- ii. The term “infringement” shall refer not only to the acts which are discovered by Customs on the occasion of checks carried out at the time when the goods are introduced into the customs territory of Ghana, or being placed under a customs procedure.
- iii. Infringements made by freight forwarders, customs house agents or other third parties acting on behalf of the applicant shall also be taken into account.
- iv. Failures to comply with domestic non-customs legislation by the applicant shall be taken into account;
- v. Where penalties related to a specific infringement are revised or withdrawn in full by the competent authority following an appeal or review their assessment of the seriousness of the infringement should be based on the revised decision.

2.1.1 Infringements of Negligible Importance

Infringements of negligible importance are those acts that, even if there was an actual infringement of any aspect of the customs regulations, are not sufficiently important to be considered as a risk indicator with regard to the international movement of goods, security issues or demandable customs debt.

2.1.2 Repeated infringements

Where a minor offence or being of negligible importance, is found to be repetitive in nature Customs shall take serious view in assessing the compliance of the applicant.

However, should the infringement is found to have happened again in different periods of time, this could be taken to be an inadequate internal management of the company regarding the adoption of measures to prevent the repetition of those infringements in the future.

2.1.3 Serious infringements

The following would be taken into account when considering serious infringements:

- i. Deliberate intent or fraud - where it has been established by Customs that the infringement was the result of a deliberate act or fraud by the applicant, or its appointed representatives, this should be considered as a serious infringement
- ii. Nature of the infringement - where an infringement is of such character that it can be considered a serious infringement of the customs legislation which requires the imposition of a significant penalty or referral for criminal proceedings;
- iii. Gross negligence –Three factors among others that would be taken into account in assessing whether a business has been obviously negligent;
 - a. Obvious disregard for Customs legislation
 - b. Careless conduct by the business
 - c. Their experience in Customs procedures

Where Customs has established that the business has been negligent, this can be an indicator that the infringement may be deemed to be serious.

Nevertheless, serious infringements could also be those that, even without the aim of the applicant of committing fraud, are so important to be considered a serious risk indicator with regard to safety and security and customs rules etc.

The following infringements could be given as examples of serious infringements:

- i. Concealment (Smuggling)
- ii. Fraud, for example, deliberate misclassification, undervaluation or falsely declared origin to avoid payment of customs duties;
- iii. Infringements related to Intellectual Property Rights (IPR);

- iv. Any other offence related to customs requirements which, due to the extent of the debt or to any other circumstances, have been subject to the decision taken by a competent judicial authority within the field of criminal law.

2.2 Satisfactory system of managing Commercial and Transport records

Customs would be checking for the relevant documentation during the audit, to establish that the applicant has a satisfactory system of managing commercial and, where appropriate, transport records, and complies with that particular criterion.

The security requirements apply to all goods entering or leaving the customs territory of Ghana, irrespective of their status.

The following general considerations will be taken into account regarding the verification of this particular criterion. That:

1. The applicant has an accounting system which is consistent with the generally accepted accounting principles applied in Ghana and which will facilitate audit-based customs control;
2. The applicant shall allow Customs physical or electronic access to its customs and, where appropriate, transport records:
 - a. Paper-based: a hard copy of the required information is handed out.
 - b. Electronic Storage: A soft copy of the required information is handed out to Customs.
 - c. On-line access: Through the company's computer system in case of site visit. This is a combination of the above-mentioned cases
 - d. Any other storage format.

Note; Electronic access is not a pre-requisite to comply with this requirement.

No matter which way data is accessible, Customs should have the possibility of data interrogation and analysis (e.g. is able to work on the data).

For this particular sub-criterion, the nature of SMEs shall be taken into account.

3. Accounting and Logistical Systems

The applicant shall have a logistical system which is capable of distinguishing between preferential and non-preferential goods. Customs shall assess how the non-preferential goods or goods subject to customs control are distinguished from the preferential goods.

The applicant must have an administrative organization which corresponds to the type and size of the business. It must be suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions.

4. The applicant must have satisfactory procedures in place for the handling of licenses and authorizations connected to commercial policy measures or to trade in agricultural products.
5. The applicant must have satisfactory procedures in place for the archiving of the company's records and information and for protection against the misuse and loss of data as prescribed under the data protection Act.
6. The applicant must have procedures in place for notifying customs in case of customs compliance difficulties and also an appointed contact person responsible for notifying Customs.

7. The applicant must have appropriate information technology security measures in place.

In particular

- a. Procedures for protecting the computer system from unauthorized intrusion and securing data.
- b. Access control to the computer and network systems

2.3 Proven financial solvency

The company should demonstrate to Customs to the satisfaction of Customs its financial solvency. The condition relating to the financial solvency of the applicant shall be deemed to be met if his solvency can be proven for the past three years.

The Corporate Insolvency and Restructuring Act, 2020 (Act1015) lays down that financial solvency means a good financial standing which is sufficient to fulfil the commitments of the applicant, with due regard to the characteristics of the type of business activity.

2.3.1 Considerations for meeting the criterion

To check whether the applicant meets the criterion, Customs shall take into consideration the following:

- i. the applicant is not subject to insolvency proceedings;
- ii. during the last three years preceding the submission of the application, the applicant has fulfilled his financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the importation or exportation of goods without any major problems;
- iii. the applicant can demonstrate sufficient financial resources to meet their obligations;

- iv. the applicant has no negative assets except where it can be proven that the applicant has sufficient resources to cover these negative assets.

2.3.2 Payment of customs duties, taxes and other charges

Customs shall establish whether the applicant has paid or was late in paying the customs duties/taxes that are legally due to customs in the last three years. This excludes the amounts that are not yet legally due or are under appeal.

If the applicant is found to be in arrears of any Customs taxes or other financial obligations to the Government, it will be enough grounds to consider the solvency criterion not met.

2.3.3 The applicant can demonstrate sufficient financial resources to meet his obligations

Customs shall establish whether the applicant is able to meet his legal debts to third parties by checking the applicant's full sets of financial statements due in the last three years taking into account;

- i. Returns filed with the Office of the Registrar of Companies (ORC) as required by the Companies Act, 2019 (Act 992).
- ii. Any audit opinions about the continuation of the business as a going concern by, for example, the auditors or directors.
- iii. Any contingent liabilities or provisions. Significant contingent liabilities will give an indication of the applicant's ability to pay future debts.

2.3.4 Finance from a loan from another person or a financial institution

Where the company is being financed by a third party, Customs shall request the terms and conditions of this financing agreement for examination.

Customs shall compare the business case and/or loan document with the latest cash flow, balance sheet and profit and loss forecasts, the debt-to-equity ratio of the company and examine the probability of debt distress and ensure the applicant is operating within its approved overdraft facility and performing in line with its forecast at the time of completing its business case.

The results from this examination may form the basis of the solvency position of the applicant.

2.3.5 Letters of guarantees from parent (or other groups) companies

When Customs is determining the proven financial solvency of a subsidiary, it may take into account that a subsidiary company may operate under a guarantee from the parent company

Where the applicant is dependent on the financial support of a parent (or other group) company to meet the proven financial solvency criterion Customs shall, where appropriate, ensure the support is provided in a legally binding, contractual agreement.

As provided for under Section 108 of the Customs Act, 2015(Act 891), where a guarantee is advanced by a parent (or other group) company, as evidence of support to its subsidiary, Customs shall ensure that such guarantees are legally binding and consistent with Customs laws and any other national legislation.

2.4 Safety and security standards

The aim of this section is to provide a guide on the safety and security measures that applicants must implement to comply with AEO safety and security requirements.

The conditions of safety and security would be deemed to be met if the applicant complies with relevant safety and security requirements.

It is important to know that examinations of the safety and security criterion would be carried out for all the premises which are relevant to the customs-related activities of the applicant.

The safety and security measures implemented by the applicants would be considered on a case-by-case basis by Customs as each company is different in structure and business model.

When preparing the AEO application it is very important to read each following sub-section in parallel with the related SAQ safety and security explanatory notes.

The applicant's safety and security standards would be considered to be appropriate only if the conditions can be verified by Customs and deemed to be satisfactory.

2.4.1 Infrastructure security

To prevent tampering with goods but also to protect sensitive data and documentation the applicant shall ensure that *“buildings to be used in connection with the operations to be covered by the certificate are constructed of materials which resist unlawful entry and provide protection against unlawful intrusion”*.

The aim of security measures to secure buildings is to prevent unlawful intrusions and in case of intrusion of the perimeter fence/building allow for:

- i. delay and deter the intruder (i.e. grids, codes, external and internal windows, gates and fences secured with locking devices);
- ii. fast detection of the intrusion (i.e. access monitoring or control measures such as internal/external anti-burglar alarm systems or CCTV (close circuit TV systems);
- iii. fast reaction to the intrusion (i.e. remote transmission system to a manager or to a security company in case alarm goes off).

While checking this sub-criterion it is of great importance to take due account that each applicant has to ensure the security of its buildings and access control, however, when assessing the way, it is achieved the specific characteristics of SMEs shall be taken into account. For example;

- i. a large manufacturer might have to have a perimeter wall/fence, security guards, and CCTV (close circuit TV systems) cameras etc; while
- ii. for a customs house agent operating from a single room in a building with locks on doors, windows and filing cabinets it might be sufficient to have a clear procedure for access control including responsibilities;

2.4.2 Appropriate access controls

To prevent tampering with goods the applicant shall have “appropriate access control measures in place to prevent unauthorized access to shipping areas, loading docks and cargo areas”.

Consideration should be given to a stepped approach depending on the risk of different areas (onion peeling principle).

2.4.3 Cargo security

To ensure the integrity of cargo and to prevent irregular practices in the flow of goods within the international supply chain, the applicant shall have established “*measures for the handling of goods to include protection against the intrusion, exchange or loss of any material and tampering with cargo units*”.

These measures, where appropriate to the business concerned, shall contain:

- i. integrity of cargo units (including usage of seals and 7-point inspection (outside, inside/outside doors, right and left side, front wall, ceiling/roof, floor/inside));
- ii. logistical processes (including choice of freight forwarder and means of transport);
- iii. incoming goods (including checking of quality and quantity, seals, where appropriate);
- iv. storage of goods (including stock checks);
- v. production of goods (including quality inspections);
- vi. packing of goods;
- vii. loading of goods (including checking quality and quantity and sealing/marketing).

Where appropriate and feasible, the above measures shall be documented and recorded.

Again, breaches of the integrity of the cargo/cargo units should be recognized at the earliest possible stage, reported to a designated security department or staff, investigated and recorded in order to take necessary countermeasures. Thus, it is also essential that the competences and responsibilities of the departments and parties involved in the security setup are clearly described and known.

2.4.4 Applicable procedures for handling export/import licenses

To prevent misuse and unlawful delivery of security-sensitive goods, the applicant shall have, where applicable, procedures in place for the handling of import and/or export licenses connected to restrictions and to distinguish these goods from other goods.

The addressed procedures may include the following:

- To distinguish goods subject to non-fiscal requirements and other goods;
- To check if the operations are carried out in accordance with current (non-fiscal) legislation;
- Related to the handling of goods subject to an embargo;
- Related to the handling of licenses;
- Regarding other goods that are subject to restrictions;
- To identify potential dual-use goods and routines attached to their handling.

2.4.5 Business Partner Security

Business partner is a term used to describe a commercial entity with which another commercial entity has some form of business relationship for the mutual benefit of both. For AEO purposes, of relevance are business partners with direct involvement in the international supply chain.

All economic operators in the international supply chain that fall between the exporter/manufacturer and the importer/buyer may be regarded as business partners to each other depending on the particular situation.

The applicant may also have contractual business relationships with other parties including cleaners, caterers, software providers, external security companies or short-term contractors. For AEO purposes, these parties are referred to as service providers. Although these parties do not

have a direct role in the international supply chain they may have a critical impact on the security and customs systems of the applicant. In terms of safety and security, the applicant should apply appropriate measures to them just as he should for his business partners.

The relationship with business partners may be contractual where the rights and obligations of both parties are set out in a legal contract. Alternatively, it may be a very loose arrangement without legal basis or it may be somewhere between both of these extremes (where documentation exists but is simply a statement of fact or intention). There may also be relationships where one party, e.g. a government owning and operating transport infrastructure and facilities, essentially determines the service parameters that another party, e.g. a carrier, can either accept or not and has very little if any, influence over these parameters.

The selection of business partners is of vital importance and applicants for AEO status should have a clear and verifiable process for selection of their business partners.

From an AEO perspective, business partners may have the option to apply for the AEO status. However, if they choose not to exercise that option or if established in a country where it is not possible to obtain an AEO status they should provide adequate evidence to their AEO partner that they can meet an acceptable level of safety and security standards. The ideal scenario of course would be that the maximum number of participants in the international supply chain hold AEO status or equivalent to it granted by the competent authorities of any third country with which Ghana has MRA.

2.4.6 Identification of Business Partners

When an international supply chain is being examined in the context of an AEO self-assessment, it is important that the role of every business partner is clearly identified. The role of the business partner determines the level of risk involved, the level of safety and security awareness required from them and, alternatively, the measures to be implemented by the AEO to mitigate the risks identified. The responsibilities of the AEO's business partners could be the following:

- i. Manufacturers and warehouse-keepers should ensure and promote the awareness that premises should meet an acceptable security standard that prevents goods in storage from being tampered with, and prevents unauthorized access;
- ii. Importers/freight-forwarders/exporters/customs house agents should ensure third-party agents have awareness of relevant border procedures and systems and are familiar with the required documentation that needs to accompany goods in transit and for customs clearance;
- iii. Carriers should ensure that the transportation of goods is not unnecessarily interrupted and that the integrity of the goods while in their custody is maintained;

2.4.7 Personnel Security

The applicant must demonstrate to Customs processes to prevent un Authorized access to sensitive installations. This must include standardized screening exercises for staff during recruitment and must be able to show, where legislation allows, background checks and profiling done on prospective employees and contractors. Customs shall also inspect all documents relating to employee exit from the company and its management.

2.4.8 Security awareness programs

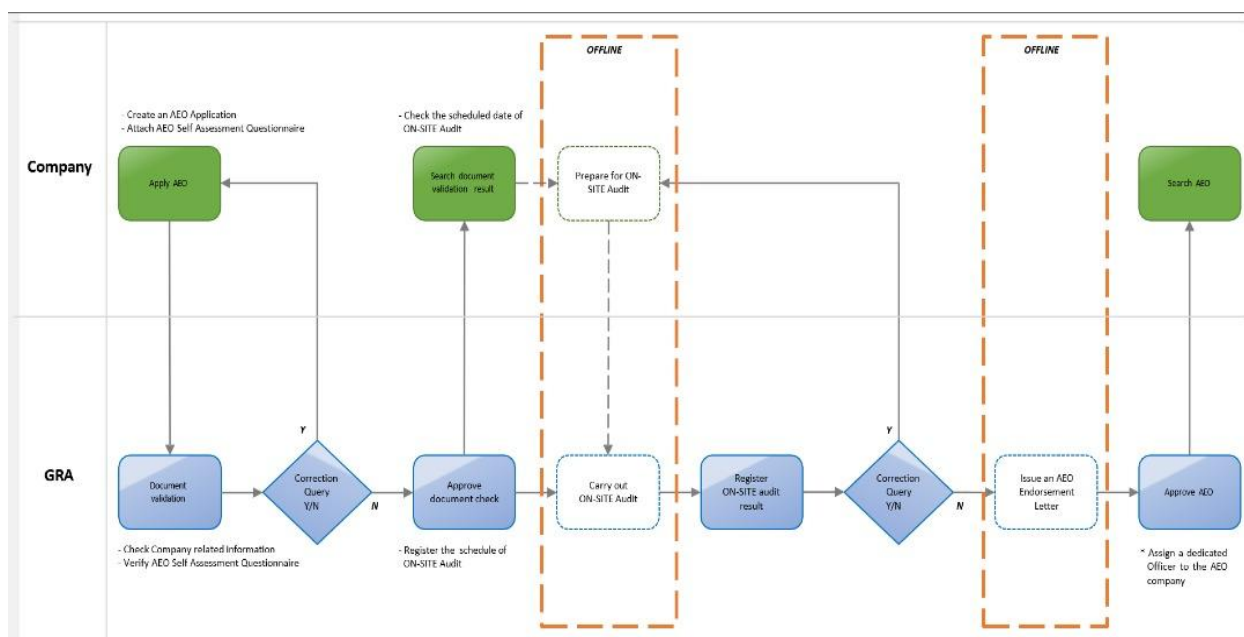
To prevent inadequate awareness of security requirements the applicant shall “*ensure that its staff concerned actively participates in security awareness programs*”. The AEO applicant should develop mechanisms in order to educate and train staff on security policies, recognise deviations from those policies and understand what actions should be taken in response to security lapses.

Staff orientation on recruitment, sensitization of existing staff on all security protocols required in that particular industry and provided with an updated incident reporting and action plan.

3.0 APPLICATION AND AUTHORIZATION PROCESS

3.1 The AEO Process Flow

Following the preparatory stage, the application process upon the formal submission of the application is illustrated in the picture below:



Source: GRA Customs – AEO application process

3.1.1 Receipt and acceptance of the application

The following shall be the procedure for the receipt and acceptance of an AEO application.

After submission of the application, the following activities shall be undertaken by Customs in the handling of the AEO application:

- Acknowledgement of receipt of application* – On receipt of the application, Customs shall acknowledge receipt within 7 days
- Application verification* - Customs shall then examine the application carry out initial checks (for completeness and attached

documents) and communicate its acceptance or otherwise within 14 days. Where necessary, Customs will inform the applicant of the necessary corrections and amendments to be effected by the applicant for resubmission.

c) Review of application (performance of documentary validation)

On receipt of the completed application, certain validation tests will be carried out to check that the applicant is:

- i. Able to establish a record of compliance with Customs and other legal provisions
- ii. Able to demonstrate satisfactory systems of managing commercial and, where appropriate, transport records.
- iii. Financially solvent.
- iv. Able to demonstrate satisfactory systems in respect of safety and security standards. The various aspects to be examined under this category are as follows:
 - Cargo Security.
 - Procedural Security
 - Conveyance Security
 - Premises Security
 - Personnel Security
 - Business Partner Security
 - Security Training and Threat Awareness

d) Acceptance of applications

Once the application has been validated per (a) – c)) above, the applicant will be informed within 30 days from the date of notification/communication of the acceptance.

The application will then be forwarded to the AEO Program (Validation) Team which will by prior appointment visit the applicant's premises and carry out an AEO audit and make the necessary recommendation to the AEO Programme Manager.

The Programme Manager, shall within 30 days from the date of the submission of the audit report, take a decision and communicate the decision to the applicant. However, this period can be extended by Customs by a further 10 days in duly justified circumstances. In peculiar circumstance(s), the period can also be extended upon the request by the applicant and with the agreement of Customs.

e) On-site audit

Customs by prior appointment shall visit the applicant's premises and carry out an on-site audit as against the information provided on the application. The audit appointment letter to the applicant shall contain the following:

- i. The appointment date of the audit
- ii. The names and designations of the audit team and lead person
- iii. The scope of the audit
- iv. The relevant personnel of interest from the applicant's company
- v. Documents that will be required, etc

f) Interim report

An interim report shall be issued and communicated to the company within 30 days from the date of the audit. The applicant shall be given the opportunity to respond to any queries raised during the audit. The time limit within which the applicant may respond shall be 30 days. Their response shall be included in the final report if need be.

g) Final Report

Where no adverse findings are made, the final audit report shall be submitted to the AEO program manager for approval within

30 days from the date of the audit. The Program Manager on approval of the AEO audit report, shall also communicate to the applicant their success.

h) Rejection of applications

Applications will be rejected at any time of the process in cases, where the applicant:

- is not eligible for a grant of AEO status, or
- has been convicted of a serious criminal offence linked to the economic activity of his business in the past, or
- in cases where the deficiency noticed in the application cannot be remedied.

where previous AEO status has been revoked and the applicant has not fully served the minimum waiting period or

- where the Commissioner General has reasonable cause to reject the application.

The information regarding the rejection of such an application will be communicated to the applicant.

3.2 Risk analysis and auditing process

3.2.1 Collection and analysis of the information

Customs shall perform risk analysis to enable the preparation of an effective and efficient audit. This is vital to get as much as possible any relevant information available on the economic operator. The information is collected with the purpose of;

- i. Better understand the business of the economic operator;
- ii. Get the best possible overview of economic operators' business organization, processes, and procedures;

- iii. Prepare the audit plan according to the risk evaluation results;
- iv. Prepare the audit (focus and scope of the audit, etc.),
- v. Verify the fulfilment of the criteria as much as possible.

3.2.2 Micro, Small and medium-sized enterprises (MSMEs)

MSMEs are all different in terms of size, complexity of the business, type of goods handled, position in the international supply chain etc.

MSMEs are also becoming an essential part of the international supply chains. In some cases, they may represent the bulk of economic operators in the international supply chain, often acting as subcontractors to larger companies.

3.3 Specific economic activities

3.3.1 Express operator

The role of a carrier within the international supply chain is described in Part 1, Section II (4) paragraph (f) of the WCO AEO Guidelines. Within this trade sector, there is a distinct sub-sector involving express operators. This sub-sector involves a relatively small number of economic operators but significant volumes of transactions;

This sub-sector has a number of distinct features:

- High volumes of transactions;
- The importance of speed of transport and fast clearance – quick delivery times are an important marketing tool for these businesses and important to their customers;
- A large number and range of business partners from regular business customers to one-off private customers;
- The economic operators often fulfil the role of customs house agent/representative in addition to the role of carrier;

- Carrying packages and freight on their own aircraft or providing loaded bags and loose packages for other air carriers;
- The economic operators often hold authorizations from Customs to use simplified customs procedures;

3.3.2 Postal operators

A postal operator has its own peculiarity and it is necessary to take into consideration its characteristics and the associated risks. The criterion on proven solvency shall be assessed in the same way as for the other operators, however, the focus below will be on some specific issues related to the other AEO criteria.

Customs Compliance

A postal operator deals with delivery/dispatch service to a multiplicity of small clients/users whose reliability is not very easy to control. The consequences relate to possible problems such as customs duties, safety and security compliance. Examples of risk areas related to customs operations could be the following:

- The high number of “small” shipments, i.e. low weight/value shipments;
- The unreliability of the statements made by the customers (mostly individuals): errors and omissions in the statements on the value and quality description of the contents of shipments, lack/inadequacy of the supporting documents accompanying the customs declarations and the consequent difficulties in meeting customs requirements (lack of certifications/ licenses, etc.);
- Delays in delivery caused by the carrier;
- High risk of "mishandled" (lost) shipments.

Accounting and logistic systems

One of the risks to be taken into account is the management of inventories reporting undelivered mail/parcels (when it has not been possible to trace the recipient or when the recipient has failed to pick them up). Regarding this critical aspect, it is necessary to make an assessment of the costs of storage (and, if any, subsequent destruction, where specified by the rules) or the costs associated with the return to sender. This could heavily influence customs and accounting operations traceability and have an impact on the logistics organization as well as management, cost, stock safety and warehouse security.

Such an operational situation requires the possibility of relying on an IT system which has to be safe enough and structured in a way to ensure the audit traceability of all customs operations, both export and import, as well as the safety of the data contained therein.

3.4 Factors facilitating the authorization process

3.4.1 General

The different economic operators due to their economic activities have to fulfil different standards and regulations besides the AEO requirements. The AEO program tries to consider and rely on already existing standards and certifications, without including a requirement to have any additional certifications to become an AEO.

This can include information in particular from:

- Previous applications for customs authorizations;
- Information which has already been communicated to customs or other public authorities and available/accessible to customs;
- GRA (Customs and Domestic Tax) audits;
- Customs procedures used/declarations made by the applicant;

- Self-assessment carried out by the applicant before submitting the application;
- Existing standards applicable to and certifications held by the applicant; and existing conclusions of the relevant experts.

3.4.2 Parent/subsidiary companies with common system/procedures

Regardless of the legal set-up of a particular company, the relevant criteria have to be fulfilled in principle by the applicant. It must be noted that parent companies and their subsidiaries unless otherwise specifically provided for by law, should be certified individually.

Customs would normally investigate the kind of relationships including contracts, shared services, management compositions etc which exist between these affiliates to assist in making a determination on applicants.

3.5 Risk and risk analysis - Economic operator's risk management

The organization of an economic operator can be a complex system involving many interrelated processes. An AEO should focus on processes, management of risk, internal controls and measures taken to reduce risks.

Customs would pay particular attention to peculiar threats that exists within a particular industry, the risks management capabilities of the company in combating these threats, the robustness of its internal control systems and how management is organized to monitor and control these internal processes to comply with Customs controls. Customs would also take into consideration the risk profile (compliance) of these companies' activities relating to customs control.

Conclusions will be drawn based on standards set by the established AEO criteria.

3.6 Final report and audit documentation

Customs auditors shall draw conclusions and audit findings based on the information gathered from both the applicant and the site audit. It is recommended that evidence gathered during audit are meticulously and accurately documented as part of the audit working papers and documentation throughout the validation process.

The final report and the audit documentation should include the following information in a clear and systematic way:

- i. A clear overview of the economic operator (its business, its role in the supply chain, its business model, its customs-related activities, etc.);
- ii. A clear description of all risk areas considered and checked including any follow-up actions suggested to the AEO applicant;
- iii. A clear report of any action or reaction the AEO applicant has undertaken or expressed to the auditors;
- iv. A clear recommendation and findings for the consideration of management and where necessary, the opinion of the auditor.
- v. In case the AEO status is not granted, complete and detailed justifications why the status is not granted, including any information received from other sources.
- vi. An overview regarding the AEO risk profile, if the AEO status is granted, any recommendations for monitoring and/or reassessment;

3.7 Decision about granting of the status

3.7.1 Factors to be considered

The decision of Customs to grant the AEO status is based on the information collected and analysed, through the different stages of the authorization process, from receipt of the application to when the audit process has been fully completed.

To enable Customs to make the decision, the following factors would be taken into consideration:

- All previous information known about the applicant by the competent authority, including the AEO application form along with the completed SAQ, and all other supporting information.
- All relevant conclusions arrived at by the auditors during the audit process.
- The results of any other evaluation of the organization and procedures of the applicant that took place for other control reasons.
- Information gathered from other governmental agencies and regulatory authorities about the company

At the end of the process, where there is a likelihood that the application will not be granted Customs, may inform the applicant of their intended decision within 10 days of reaching the decision. The communication to the applicant must state clearly the time interval within which they are required to submit their response. Applicants may then be allowed the opportunity;

- to within a period of 30 days respond to the conclusions and to introduce further supplementary information that can be taken into account in arriving at the final decision.
- To cooperate and work towards meeting the required criteria.

Failure to respond within that period will be deemed to be a waiver of their right to be heard. In circumstances where an applicant indicates that they wish to waive the right to be heard, this fact would be recorded and retained as evidence that the applicant was provided the opportunity to respond.

If, as a result of the supplementary information provided or further evidence that has been submitted, Customs decide to amend the original decision, the applicant shall be informed accordingly.

3.7.2 Taking the decision

The approving authority of Customs would make the final determination as to the granting or otherwise of the AEO status. This would only happen after a thorough appraisal has been made of all the processes leading up to the certification and the same has been found to be administratively and lawfully executed. The following factors have to be taken into consideration;

- The approving authority of Customs has the mandate to decide on whether to grant the AEO status or not;
- The approving authority has 30 days from the delivery of the audit report to take the decision. The time limit may be extended under the following conditions:
 - Customs may extend this time limit for a further 30 days, if it is unable to, for circumstances beyond its control, to meet the first 30 days. and before the expiry of the 120 calendar days, the applicant has to be informed about the extension;
 - At the request of the applicant and subject to approval by Customs. During the latter extension, the applicant may carry out adjustments in order to satisfy the criteria and communicate them to Customs. The period of extension

requested should be reasonable with a view to the nature of the adjustments to be done.

3.7.3 Informing the applicant

Once the decision is taken, Customs shall inform the applicant in writing. Any decision not to grant the approval status shall include the reasons for rejection and the right to appeal to the AEO approving authority.

3.7.4 Appeals

The AEO certification process has an opportunity for appeal by the applicant at any stage where the applicant is dissatisfied with any decision by Customs.

Any applicant who is aggrieved by a written decision related to the AEO status process may appeal such decision.

4.0 MANAGEMENT OF THE AUTHORIZATION

4.1 Internal Monitoring by the authorized economic operator (AEO)

Regular monitoring is the primary responsibility of the AEO. It should form part of its internal control systems. The AEO should be able to demonstrate how the monitoring is performed and show the results.

The AEO should review his processes, risks and systems to reflect any significant changes in his operations. Customs should be informed about these changes.

There is also a legal requirement that the AEO shall inform Customs of all factors arising after the certificate is granted which may influence its continuation or otherwise. Although, it depends very much on the particular AEO concerned, it is a requirement that, the AEO inform Customs through the AEO Secretariat in the following cases:

- Changes related to any data in the application form or in the mandatory Annexes (i.e. legal status, business name etc.)
- Changes related to the nature and structure of the business:
 - Changes related to the accounting or computer systems;
 - Changes related to locations or branches involved in the international supply chain;
 - Changes related to any business activity/role in the international supply chain included in the application, e.g. manufacturer, exporter etc.
 - Major changes related to the main business partners;
 - Significant changes in the financial standing;

- Report of any customs errors and any significant security incidents;
- Report of any indications of failure to comply with the criteria.

It must be noted that this list is not exhaustive and may be varied when necessary.

To ensure AEOs are aware of these obligations, Customs shall ensure that these obligations are effectively communicated to the AEO. Where Customs discovers changes which have not been communicated by the AEO, Customs would also take steps to rectify this anomaly.

4.2 Monitoring by Customs

Customs shall constantly monitor adherence to the criteria set out for the AEO certification. This monitoring would afford Customs the opportunity to ensure compliance and to establish feedback channels from the AEOs own monitoring systems.

There shall also be established an efficient system of evaluation of the performance of AEOs in line with WCO Performance Measurement Mechanism (PMM) guidelines and international best practices.

There shall be the establishment and deployment of control measures for monitoring the performance and compliance of AEOs.

Customs shall constantly communicate any recorded incidents to the AEOs concerned and accord the AEOs the opportunity to respond.

- Monitoring of risks – monitoring shall also be tailored to capture new and emerging risks. Any newly identified risks shall be assessed on the basis of changing externalities both on the side of Customs and the operator.

- If any of the elements of the evaluation leads to the conclusion that the operator is not or no longer adequately addressing identified risks, Customs shall inform the operator about that conclusion. The operator is then required to undertake the specified improvement actions and report the same to Customs immediately or as otherwise instructed.
- Customs would then assess the adequacy of such reported improvements and to its satisfaction.
- It must be noted that these improvements may lead to conclusions that reassessment of one or more of the conditions should be done or that the AEO status would be re-considered immediately.

4.3 Re-assessment

Customs shall re-assess whether an AEO certificate holder continues to comply with the conditions and criteria of AEO where there are:

- Major changes to National legislation, or
- Reasonable indications that the relevant conditions and criteria are no longer met.
- Renewal of Certificate

4.3.1 Re-assessment following major changes to National legislation

A re-assessment shall be required if there are major changes in the Ghanaian customs legislation specific to and having an impact on the conditions and criteria for granting the AEO status.

An example will be changes to the AEO criteria within the Customs Act. Usually, the legislation will require the re-assessment to be carried out within a specified transitional period.

4.3.2 Re-assessment following reasonable indications that the relevant conditions and criteria are no longer met

A decision for reassessment is that 'there is reasonable indication' that the criteria are no longer met by the AEO.

This indication may arise from different situations – as a result of;

- i. Customs monitoring;
- ii. Information received from other Customs Administrations;
- iii. Major changes in the activity of the AEO etc.

For example, if a parent company establishes a new branch or it goes through a restructuring process which has any impact on the company, it shall inform Customs which would take the necessary measures including, but not restricted to, a process of re-assessment.

4.3.3 Renewal of Certificate

Generally, the AEO certificate as it stands now has a three (3) year validity period. It is a requirement under the AEO certification program that operators would take steps to apply for a renewal of their status. It is also a requirement that operators intending to renew their certificate submit their operations to Customs for the conduct of re-assessment of all conditions related to their certification.

A re-assessment of the AEO shall be conducted 6 months prior to expiration.

Re-assessment report

In terms of reports and documentation, re-assessments must of necessity follow the same approach as that adopted on the first application. It is

important that conclusions and recommendations to management for subsequent action are clearly captured in the report.

Communication of Re-assessment

Customs shall communicate the outcome of any re-assessment to all stakeholders including Customs Administrations of other countries with whom Ghana has an MRA.

4.4 Suspension and Restoration

4.4.1 Suspension at the instance of Customs

Customs may suspend an AEO who is found to have committed infractions. The suspension of the status means that an assigned certificate is not valid during a specified period. During this period, the holder shall not have access to the benefits that the status provides.

Where a decision to suspend an AEO has been arrived at, Customs shall notify the AEO of its decision and recommend remedial actions necessary to address the issues.

The timescales for comments and corrections shall be clearly stated in the communication to the affected AEO.

When the recommend remedial actions have been met, the certificate should be reinstated. Where a response or an indication of remedial actions taken by the operator is presented to Customs, these responses or processes must be carefully assessed from the perspective of the risk identified in the re-assessment report. Unless the situation can be regarded as corrected, the status shall remain suspended for a period not exceeding 30 days with the possibility of extension for additional period not exceeding 30 days.

4.4.2 Suspension at the instance of the AEO

The initiative for suspension of the status may also come from the holder of the certificate when he is temporarily unable to meet any of the AEO criteria. The AEO should present the reason for the request and where appropriate, propose an action plan showing the measures to be taken and the expected time frame.

For example, an operator is optimizing or changing its computer-integrated manufacturing and, for a while, he is not able to follow the goods in the international supply chain. He would ask for a suspension and propose a timetable for implementation.

The status can be suspended if the action plan and the reason for the requested service can be considered reasonable. If not, a withdrawal of the certificate should be discussed as a possibility.

Customs shall assess the effect of the suspension very carefully. The suspension should not affect a clearance that has already been entered into a Customs procedure before the date of the suspension and is still not completed. Any ongoing investigations being carried out on the operator shall not be curtailed as a result of the suspension.

4.4.3 Grounds for Suspension

The Commissioner-General may suspend a certificate granted to an AEO if the AEO;

(a) is found to have made a false or misleading statement in the application for the certificate; or

(b) in relation to or arising out of the performance of functions as an AEO, is found guilty of conduct which is an abuse of the rights and privileges attached to the certificate.

(c) request for suspension of its certificate

4.4.4 Withdrawal from the program by an Operator

An AEO on application may be allowed to withdraw from the program if they demonstrate to the satisfaction of Customs that they;

1. are not able to meet the conditions for certification
2. have found no need to remain in the program
3. have outlived the relevance of any benefit the AEO program seeks to offer
4. are unable to rectify any identified infraction and have not been able to provide a definite means to remedy the infractions

When an operator applies for withdrawal from the AEO program, Customs shall subject such applications to rigorous scrutiny to ensure that the applicant is not abusing the withdrawal process or to sidestep any probable investigative work Customs may initiate against the operator.

In cases where the operator is found to have committed any infractions or abuse of the process, the terms of the withdrawal shall be varied to take on the terms of the full revocation of the certificate.

However, if no adverse findings are found against the operator, the withdrawal applications shall be approved and the operator notified accordingly. In this case, the operator is allowed to submit a new application for an AEO certificate as soon as his situation against compliance with the criteria is stabilized.

4.5 Revocation and Suspension

4.5.1 Revocation

The AEO certification could be revoked in cases where there have been severe breaches or repeated infringements as provided for under

paragraph 2.1 The decision to revoke an operator's certificate shall be considered as a last resort when all efforts to get the operator to be compliant have failed. Where a certificate is revoked, an applicant has a waiting period of three (3) years before the operator can re-apply. Where a decision to revoke an AEO has been arrived at, Customs shall notify the AEO of its decision

4.5.2 Grounds for Revocation

Customs may revoke an AEO certificate if the operator;

- (a) Commits or attempts to commit an offence, under any laws in relation to customs business;
- (b) Is convicted for an offence punishable by imprisonment whether in the country or elsewhere;
- (c) Becomes an undischarged bankrupt; or
- (d) In the opinion of Customs, is found to be unfit to continue to be certified as an AEO as a result of the material breach of the terms of the certifications, repeated commission of offences, among others.

4.5.3 Full Compliance Audit

In cases of suspension, withdrawal and revocation, Customs shall conduct or cause to be conducted a full compliance audit on the operator to establish any unfulfilled/unsettled fiscal obligations to Customs and to ascertain the veracity of the reasons for their exit among others.