

Regulatory Impact Assessment (RIA): Authorised Economic Operators (AEOs)

Title of proposal

This is an initial Regulatory Impact Assessment (RIA) for the amendment to the Council Regulation (EEC) no. 2913/92 establishing the Community Customs Code (CCC) to allow the introduction of Authorised Economic Operators (AEOs).

1. Purpose and intended effect of measure

1.1 Background

The amendment to the CCC, adopted by the European Parliament on 23.2.2005, allows Customs authorities to grant the status of AEO to any business that satisfies EU criteria. An AEO will be able to benefit from simplified customs controls and procedures. The criteria to be applied and specific simplifications will be set out in the Implementing Provisions (IP) for the CCC 2454/93. As these are not yet available a detailed analysis of the specific costs and benefits has not been possible.

1.2 Scope of Change

This RIA relates to:

- the introduction of the status of AEOs
- the AEOs status to be issued by a single MS and recognised by all other MS
- the provision for an AEO to be a non-EC established entity
- defining the procedures/ criteria to be applied when granting AEO status to ensure consistency across the community.

A separate RIA on 'Pre-Arrival/Departure Declarations, Data Sharing and Risk Assessment' covers the other aspects of this Code amendment; copies available on request.

2. Risk Assessment

2.1 Current arrangements

Traders wishing to benefit from Customs simplifications or facilitations have to apply to each Member State (MS) in which they operate (the exception to this is the Single European Authorisation (SEA) where the other MS involved have to approve the authorisation, but they are limited in scope, unwieldy and time-consuming to set up). This results in:

- no EU-wide recognition of trader status
- different approval criteria and post-approval controls applied
- traders may qualify for a simplification in one MS but be rejected by another
- no commonly agreed levels of facilitation for authorised traders - level of simplifications differ across MS
- multi-national companies have to retain different records/ comply with different operating procedures
- creation of procedures that are incompatible and systems that are unable to communicate on an EU-wide basis.

Different levels of risk assessments, frontier interventions and post-clearance controls are carried out. This results in:

- inconsistency in treatment for traders
- uncertainty over delivery timescales for traders operating on a 'just-in-time' principle.

2.2 New system

The detailed criteria and conditions of the AEO scheme are not yet available but the following generic risks have been identified and will be reviewed once the IP are made available:

The new system fails to take account of the current capabilities and cultural differences of the various MS. This results in:

- individual MS opt out, minimise the implementation or fail to recognise the status of AEO assigned to a trader by another MS
- the scheme will fail to deliver the fullest benefits and costs will escalate for the traders concerned.

Inconsistencies across MS in application of controls/approval criteria. This results in:

- inconsistency of treatment for the trade
- increased risks for society in terms of trader compliance and anti-smuggling controls in particular (achieving AEO status in any MS does not exempt traders' consignments from examination at either import or export where there is reason to believe that illicit goods are being carried/concealed)
- traders migrate to the MS where it is perceived as being easier to gain status having a knock-on impact upon the level of import duties collected by each MS.

However, the AEO system is designed to bring about benefits to the trade by offering access to customs simplifications and/or relaxations in security requirements to facilitate quick clearance time from ports.

3. Options

The [tables](#) on the following pages provide an initial assessment of some of the possible impacts and risks resulting from the introduction of AEOs.

3.1 Preferred option prior to detailed consultation

Option 3 would provide the most benefit to traders, allowing them to apply for AEO status/ simplifications in a single MS for EU-wide validity. There are potential problems, for example, in dealing with, and enforcing, prohibitions and restrictions that vary across the Community. Option 2 would require perhaps only slightly more resources from the trade, but would provide more control for HMRC to fulfil its legal obligations with respect to the new proposals. The option to support is still under discussion at policy level.

3.2 Business sectors affected

The AEO scheme will be available to all traders involved in import and export activities irrespective of trade sector or size. However, dependent upon the level of criteria/ conditions imposed upon approvals the scheme may not be attractive to Small Businesses.

The proposal does not currently state whether the scheme will be restricted to declarants but the UK would wish to see this scheme made available to third parties also as this would provide a more cost-effective route for Small Businesses to benefit from the simplifications.

Customs agents/ representatives play a vital role in making simplifications/ facilitations available to smaller businesses. The representative applies for the procedure in their own name and then undertakes the Customs formalities on behalf of the smaller firms allowing them to benefit (via the third party) from using simplified procedures.

An initial analysis of the likely trade sectors that may be affected by this proposal is shown below:

Analysis of the likely trade sectors that may be affected	
Multi-nationals, Other companies importing/ exporting via more than one MS.	Need to harmonise procedures/ system requirements across EU. If one-stop shop approval allowed (ie, option 3) greatly simplified approvals process and proportionate reduction in compliance costs.
Small Businesses if import / export is major part of business – although they might want to make use of third party AEOs.	Possibility that criteria/ conditions of approval and associated supply chain requirements may make costs of becoming approved disproportionate to benefits.
Importers/Exporters.	Need to apply for AEO status in order to gain/ retain simplifications. Added layer of bureaucracy.
Software Suppliers/ computer bureaux.	Amendment of software packages, expansion of clientele population, new markets – supply chain security packages.
Customs Brokers/ Consultants.	New business opportunities – consultancy on AEO applications, supply chain security, MS administrative procedures.
Logistics Operators, Carriers, Freight Forwarders, Couriers, Agents.	Requirement to provide supply chain security assurance, high likelihood they would need to become AEO to retain business.
Community Service Providers (CSPs)/ Port Authorities.	Linked with pre-arrival/departure declaration initiatives – need to cater for new data sets/ additional information requirements, new submission time limits. Also need to cater for AEO specific simplifications alongside standard import/ export requirements.

3.3 Issues of equity and fairness

It is not envisaged that there will be any issues of inequity or fairness arising from these proposals providing that the AEO scheme is not restricted to a specific trade sector/ type.

3.4 Compliance costs

Until the specific details of the approval criteria and conditions, levels of simplifications and waivers to be included within this change are provided it is not possible to quantify the average compliance costs of a business/ trade sector.

3.5 Other costs.

At this point it has not been possible to analyse any hidden costs that could occur as a result of these proposals.

4. Consultation with small business: the Small Firms' Impact Test

At this point, there has been some consultation through working groups and a website, with businesses. There has not been any formal consultation as yet. The Small Firms' Impact Test has not been carried out at this stage.

5. Competition assessment

The competition assessment has not been completed at this stage.

6. Enforcement and Sanctions

6.1 How will the proposal be enforced?

The proposal will be enforced by HMRC – frontier staff/ regional business assurance staff through normal assurance and frontier controls.

6.2 Will the legislation impose criminal sanctions for non-compliance?

There is a civil penalty system in place, which can be used for non-compliance with regards to fiscal matters. Current practice allows for the use of compound penalties and offence action to be taken in the event of illegal imports, prohibition and restriction matters. Initial indications are that these practices would be extended to cover AEO activities.

7. Monitoring and review

This RIA will be subject to formal evaluation 12-months after the new Regulation comes into force. This will be undertaken in partnership with the Joint Customs Consultative Committee (JCCC) working groups.

8. Consultation

Consultation has taken place with the Frontiers and International Trade working groups and feedback has been received from BIFA, SITPRO, AICES, ASM, Rolls Royce and Bell Davies. A copy of the initial consultation findings is at Annex 2. Further trade consultation will take place through the JCCC.

Consultation has also been carried out within HMRC, Frontiers and International Trade on this issue and a copy can be found at Annex 2. Future consultation will be carried out via the Customs Code Working Group.

9. Summary and recommendation

It is envisaged that option 3 would provide the most benefit to traders, allowing them to apply for AEO status/ simplifications in a single MS for EU-wide validity. Until such times as the detailed criteria and conditions are available specific costs and benefits cannot be quantified. There is currently an EU working group examining this issue and they are due to report in the latter half of this year.

10. Declaration

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed

Date

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Annex 1 - Commission Proposal document

Articles covered by this RIA

This RIA covers article 5a of the [proposal document](#). The 'Pre-arrival/ Departure Declaration, Data Sharing and Risk Assessment' RIA covers the remaining articles.

Annex 2 - Consultation findings

[Internal consultation findings](#)

[External consultation findings](#)

Annex 3 - Associated papers

The RIAs listed below relate to other areas of the Commissions programme of change:

- [General Overview of the Modernisation of the Community Customs Code.](#)
- [Pre arrival/ departure declarations, Risk Assessment and Data Sharing.](#)
- [SAD Harmonisation.](#)
- [Simplified Procedures.](#)
- [Special Procedures.](#)
- [Multi-Annual Strategic Plan \(MASP\).](#)
- [Customs Debt.](#)
- [Other Miscellaneous Articles.](#)

Copies can be provided on request.