

Special report

Authorised Economic Operators

Solid customs programme with untapped potential and uneven implementation



EUROPEAN
COURT
OF AUDITORS

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Executive summary

I To facilitate legitimate trade between the EU and its global partners and to ensure international supply chain security, the EU has a system in place to simplify customs procedures for reliable traders. In exchange for demonstrating that they consistently follow customs and tax rules, these traders - known as authorised economic operators (AEOs) - receive preferential treatment in the customs process.

II The European Commission is responsible for making legislative proposals related to the EU's AEO programme, for monitoring its implementation by the Member States and for assessing its effectiveness. It also provides guidance to Member States on its implementation. Member States are responsible for authorising traders, managing the AEO authorisations and granting the related benefits to AEOs.

III We decided to carry out this audit because we have not previously audited this programme, which has been in place since 2008 and involves a significant part of the EU's external trade. Moreover, our previous audits of EU customs import procedures and E-commerce highlighted areas of risk related to the AEO concept.

IV The objective of our audit was to assess whether the EU AEO programme facilitates legitimate trade and supply chain security. To do this, we examined whether the Commission provided a sound regulatory and monitoring framework and whether the Member States implemented the programme properly. We reviewed the Commission's role in designing the AEO programme's regulatory framework and in monitoring its implementation. We visited five Member States (Bulgaria, Denmark, Ireland, the Netherlands and Spain) to assess the programme's implementation and we gathered direct evidence from EU AEOs by way of a survey. Our audit work covered the period from the beginning of 2019 until the end of 2022.

V Our overall conclusion is that the AEO programme facilitates legitimate trade, enhances supply-chain security and the protection of the EU financial interest, but the management, regulatory framework and the implementation, including AEO benefits, require changes and improvements. Its regulatory framework is generally robust, with a clear and transparent legislative framework, but some concepts are not defined. The Commission's monitoring of the programme's implementation is not sufficient to ensure that Member States grant AEOs the related benefits, nor does it systematically monitor the implementation of mutual recognition agreements concluded with third countries. The AEO programme does not have an adequate performance measurement framework in place, including quantitative targets and objectives.

VI The Member States implement the programme generally well, though there are some deficiencies in the management of authorisations. The visited Member States grant some benefits to their registered AEOs inconsistently, with some being granted only to certain roles in the supply chain. Moreover, customs authorities do not properly monitor AEOs' permanent business establishments in other Member States and they do not consistently use the AEO common IT system. In addition, no reliable common EU framework exists for measuring the programme's performance and the indicators used by some Member States are voluntary and unreliable.

VII We make a number of recommendations to improve the effectiveness of the AEO programme and contribute to the upcoming reform of the Union Customs Code. We recommend that the Commission should:

- improve the regulatory framework;
- improve the current performance measurement framework;
- improve the management of the AEO programme.

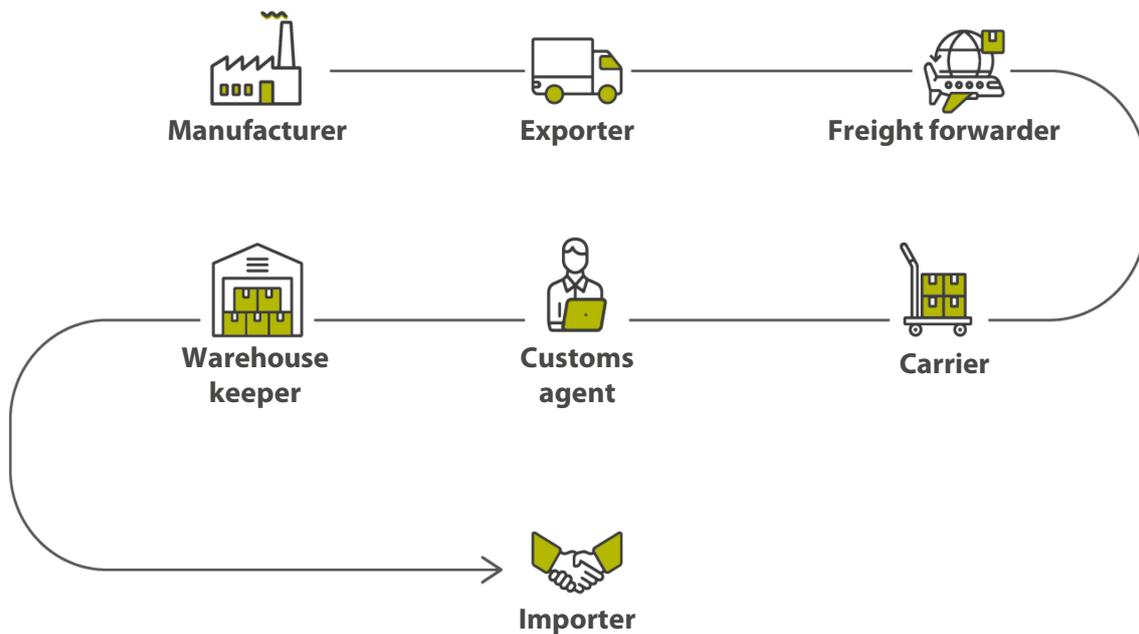
Introduction

01 Each second, goods with a value of approximately €241 000 cross the EU's external customs border¹. This flow of goods is supervised by Member States' customs authorities, which carry out checks aimed at ensuring international supply chain security and facilitating legitimate trade. The amount of administrative work involved in this process is significant. To ease the burden, the EU has put in place a programme whereby traders who have demonstrated that they consistently comply with customs and taxation rules are entitled to certain benefits. These traders are called authorised economic operators or AEOs.

02 The AEO programme is based on a transparent, fair, and responsible partnership between customs authorities and traders. AEOs are expected to comply with customs and taxation legislation and inform customs authorities about any difficulties they experience in doing so. In return, customs authorities provide support to AEOs when they need it. The programme is open to any trader – or “economic operator” – established within the EU's customs territory, which is involved in customs-related operations. *Figure 1* illustrates the different roles an economic operator can play in the international supply chain.

¹ https://taxation-customs.ec.europa.eu/customs-4/eu-customs-union-facts-and-figures/eu-customs-union-unique-world_en.

Figure 1 – Roles in the international supply chain



Source: ECA.

03 Facilitating legitimate trade and ensuring the security of the supply chain are the main objectives of the programme. Thus, the more AEO partners participate in a transaction's supply chain, the more secure and safe the whole EU chain becomes. As there are significantly less infringements from AEOs the financial risk of not collecting the right amount of own resources for the EU budget decreases. Implemented properly, such a system can give customs authorities a better view of which customs duty areas are most affected by irregularities, allowing them to focus resources on addressing areas of highest risk. It can also help decision-making bodies at national and EU level to assess the impact of customs policy decisions.

04 In order to become an AEO, a trader needs to undergo a thorough assessment by the customs authorities of a wide range of criteria. By meeting these criteria, AEOs are considered as more reliable, financially solvent and safer than other regular traders, and therefore, they pose significantly less risk to the EU financial interests. The benefits they are entitled to create an inducement to legitimate trade, and an opportunity for increased efficiency in the allocation of customs resources, by discontinuing unnecessary customs checks.

05 In essence, the AEO programme introduces a trader-specific element, essentially identifying trustworthy traders that receive preferential treatment, such as easier access to simplifications and less frequent controls, in return for proven commitment

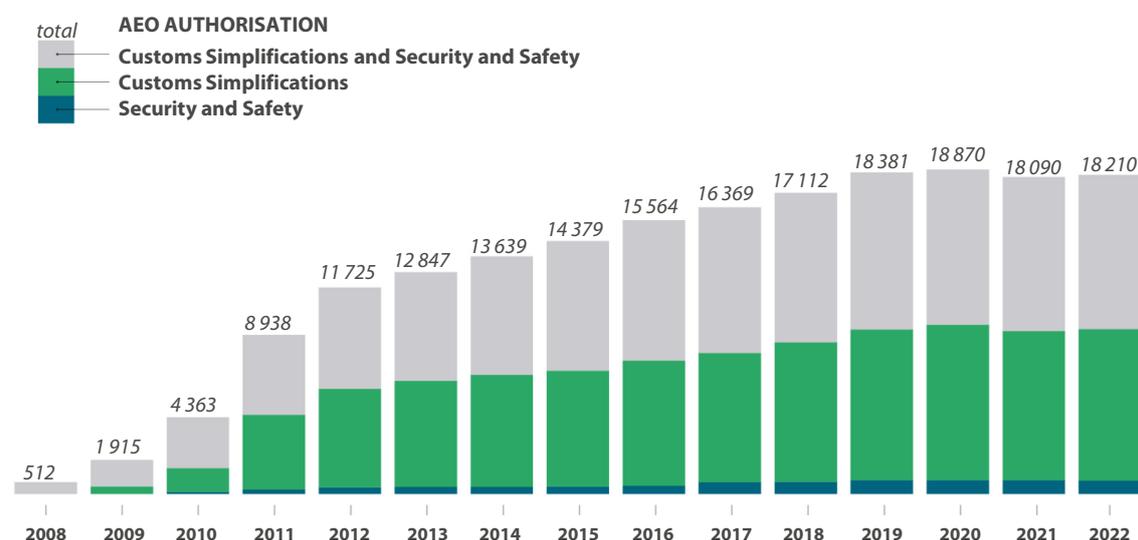
to working in partnership with customs to ensure continued compliance with a set of core criteria.

06 There are two types of AEOs, while a trader can hold both authorisations at the same time:

- o **AEO for customs simplifications (AEOC).** Traders with this status may benefit from certain simplified customs procedures.
- o **AEO for security and safety (AEOS).** Traders with this status may benefit from facilitations relating to security and safety when their goods enter or leave the EU's customs territory.

07 The AEO programme facilitates trade flows, and improves customs efficiency by making it easier for customs authorities to focus their attention on the movements of high-risk goods. The number of AEOs has grown significantly over the years (see [Figure 2](#)). In 2008, when the programme started, 512 traders received AEO status. By 2022, the number of AEOs had risen to 18 210. These traders play a very significant role in EU trade: in 2020, AEOs were involved in 74 % of total EU imports and 83 % of total EU exports².

Figure 2 – Number of valid authorisations 2008 - 2022



Source: ECA, based on [DG TAXUD](#) data.

² Commission Interim Evaluation of the implementation of the Union Customs Code, [SWD\(2022\) 158](#).

Regulatory framework

08 The AEO programme of the EU is based on international standards set out in the World Customs Organization’s “SAFE Framework of Standards to Secure and Facilitate Global Trade”.

09 The current legal framework for the programme is set out in the [Union Customs Code \(UCC\)](#) and its [implementing provisions](#), with most of the provisions applying since 1 May 2016. A customs legislation reform, including the UCC, is planned to be proposed for the first half of 2023.

10 In addition to the legal provisions regulating the AEO programme, the Commission has issued [AEO Guidelines](#) to support Member States and AEOs in implementing the programme (see [Figure 3](#)). These guidelines are not binding, but are a useful resource for customs authorities and traders. Their purpose is *“to ensure a common understanding for both customs authorities and economic operators and to provide a tool to facilitate the correct and harmonised application by Member States of the legal provisions on AEO”*.

Figure 3 – Current regulatory framework of the AEO programme



Source: ECA.

AEO authorisation process

11 The AEO programme is implemented by Member States, whose customs authorities are responsible for granting and managing AEO authorisations in the EU. Member States customs authorities can grant AEO status to any economic operator established in the EU's customs territory, if the economic operator meets certain EU-wide criteria established in the UCC. [Figure 4](#) contains details of these criteria and the benefits of the programme for each type of AEO. The AEO status is recognised by all customs authorities across the EU. Holders of a valid AEO authorisation can use an AEO logo, which is copyrighted by the EU and is provided by the national competent customs authorities.

Figure 4 – Criteria and benefits by AEO type

Criteria	Authorised economic operator customs simplifications	
	AEOC	AEOS
Economic operator	✓	✓
Established in the customs territory of the Union	✓	✓
Compliance with customs and taxation rules	✓	✓
Record keeping	✓	✓
Financial solvency	✓	✓
Competence and qualification	✓	✓
Security and safety		✓
Benefit		
Fewer controls	✓	✓
Prior notification in case of selection for control	✓	✓
Priority treatment	✓	✓
Request for place of control	✓	✓
Indirect benefits	✓	✓
Easier admittance to customs simplifications	✓	
Mutual recognition		✓

Source: ECA.

Mutual recognition with non-EU countries

12 EU customs authorities can only grant AEO status to traders established within the EU's customs territory. However, some non-EU countries also have AEO programmes in place in their own jurisdictions. The EU has a scheme in place allowing EU AEOs and AEOs in certain non-EU countries to enjoy reciprocal benefits in each jurisdiction. This scheme is called **Mutual Recognition** and its main purpose is to ensure the security of the end-to-end supply chain. Only AEOs with the “safety and security” component are eligible to participate.

13 As of 31 December 2022, the EU has concluded mutual recognition agreements (MRA) with the following MRA countries (see [Table 1](#)).

Table 1 – AEO mutual recognition agreements concluded by the EU by the end of 2022

Non-EU country	Date
Switzerland	June 2009
Norway	June 2009
Japan	June 2010

Non-EU country	Date
Andorra	January 2012 ³
USA	May 2012
China	May 2014
United Kingdom	May 2021 ⁴
Canada	October 2022 ⁵
Moldova	November 2022

Source: ECA.

³ Not operational due to the absence of data exchange.

⁴ Provisionally applied from 1 January 2021.

⁵ Will become operational as soon as the automatic data exchange arrangements are in place - expected for Q3/2023.

Audit scope and approach

14 The objective of our audit was to assess whether the EU AEO programme successfully supports legitimate trade and supply chain security. To do this, we examined whether the Commission provided a sound regulatory and monitoring framework and whether the Member States implemented the programme properly. Our audit work covered the period from the beginning of 2019 until the end of 2022.

15 We carried out this audit because the AEO programme, which has been in place since 2008, involves a significant part of the EU's external trade and it has not been audited before. Moreover, our previous audits of EU customs import procedures and E-commerce highlighted risks of undervaluation and abuse of low value consignment reliefs related to AEOs. In this audit, we make recommendations for improvements, concerning the framework, implementation, and monitoring of the programme, which will contribute to the upcoming reform of the Union Customs Code.

16 We audited the activity of the Commission and five Member States (Bulgaria, Denmark, Ireland, the Netherlands and Spain) which we selected based on quantitative and qualitative risk criteria.

17 We reviewed the Commission's role in designing the AEO programme's regulatory framework and in monitoring its implementation. We looked in particular at the following elements, with the audit approach and methodology we used for performing this audit at the Commission level presented in [Annex I](#):

- We examined the design of the relevant legislation to determine whether it is sound and if the Commission had verified how Member States applied the EU rules, and whether it had taken the necessary action to address any delays or mismatches in its implementation;
- We investigated whether guidelines and information on the programme's implementation were available. We assessed the quality of that information, and analysed how the Commission had shared it with Member States;
- We investigated whether the Commission had put in place a common EU framework for monitoring the programme's performance to ensure that it was providing the intended results; and
- We evaluated the Commission's processes for concluding and monitoring mutual recognition agreements with non-EU countries.

18 We assessed how Member States:

- granted and managed AEO authorisations;
- designed their customs risk-management systems to ensure that the right balance was struck between trade facilitation and rigour in customs controls while protecting the EU financial interests;
- granted benefits to the AEOs in the EU and those in non-EU countries, with which a MRA agreement is operational; and
- cooperated amongst themselves, with the Commission, and with other relevant stakeholders.

19 In the visited Member States, we used risk-based sampling to select AEOs for our audit. We performed walk through tests pertaining to the granting and management of their AEO status, and inspected a sample of their import customs declarations. The audit approach we used for auditing Member States is presented in [Annex II](#).

20 To gather the users input on how the programme is implemented, its benefits and weaknesses, we launched a survey, addressed to all AEOs registered in the EU (see [Annex IV](#)).

Observations

Robust regulatory framework, but lacks adequate provisions for measuring performance

21 The legislation and guidelines governing the AEO programme must ensure that AEO status is granted only to legitimate and reputable traders. It must also grant meaningful benefits to these traders to simplify their customs procedures. We assessed the completeness of the legislation underlying the programme, as well as the AEO Guidelines provided by the Commission. We also examined how the Commission monitors the AEO programme's performance and evaluated its processes for concluding and monitoring of mutual recognition agreements.

The regulatory framework is generally robust

22 We examined whether the Commission had provided a sound regulatory framework for the EU AEO programme. Although the regulatory framework is generally robust, we identified shortcomings concerning the definition of serious and repeated infringements, and consultations between national customs authorities.

23 In order to apply for AEO status, an economic operator must meet certain trustworthiness criteria⁶ (see [Figure 4](#)). In our view, these criteria must be clear, and capable of being implemented easily and consistently. We found that one of the eligibility criteria, relating to compliance with customs legislation and taxation rules, was unclear and had been interpreted differently in various Member States.

24 Under the criterion in question, AEO status cannot be granted to traders who have seriously or repeatedly infringed customs or taxation rules applying to their economic activity. The criterion applies to:

- (i) applicants;
- (ii) employees in charge of the applicants' customs matters; and
- (iii) persons in charge of the applicant, or who exercise control over the applicant's management.

⁶ Article 39 of the [UCC](#) and Articles 24 - 28 of [Commission Implementing Regulation \(EU\) 2015/2447](#).

25 We found that each visited Member State interpreted the criterion differently within its own national rules (see [Table 2](#)). Although the [AEO Guidelines](#) of 2016 provide detailed examples of how this criterion should be applied⁷, we consider that this inconsistent interpretation results from a lack of definitions in the EU AEO legislation.

Table 2 – Member States’ interpretations of “serious infringement” and “repeated infringement”

Member State	Serious infringement	Repeated infringement
Bulgaria	Infringements punished by fines exceeding a given amount: for customs infringement, BGN 25 000; for tax infringements, BGN 15 000.	Infringements committed within one year of a similar infringement. Infringements in different fields are not considered to be “repeated”.
Denmark	No clear definition – subject to analysis on a case-by-case basis	No clear definition – subject to analysis on a case-by-case basis
Ireland	No clear definition – subject to analysis on a case-by-case basis	No clear definition – subject to analysis on a case-by-case basis
Netherlands	A crime for which pre-trial detention is allowed. This means that the offence must be punishable by a term of imprisonment of four years or more.	No clear definition – subject to analysis on a case-by-case basis
Spain	No clear definition – subject to analysis on a case by case basis	No clear definition – subject to analysis on a case by case basis

Source: ECA.

26 We found that the visited Member States also apply different registration requirements to prospective AEOs, which may lead to inconsistencies in the treatment of AEOs. For example, a trader has its headquarters in one Member State and a permanent business establishment in another. The permanent business establishment seriously or repeatedly infringes customs or taxation rules, but the Member State where it is located has no clear definition of the criteria. In this case, the headquarters might obtain AEO status. In this event, there is a risk that similar infringements will

⁷ Part 2, Section I of the [AEO Guidelines](#).

continue to occur in the future. This may have potential negative consequences for supply-chain security and for the financial interests of the EU and its Member States.

27 During certain parts of the AEO authorisation procedure, customs authorities are required⁸ to consult their counterparts in other Member States for details of the applicant's customs activities. If the consulted customs authority does not reply to such a request within 80 days, the conditions and criteria for which the consultation took place are deemed to be fulfilled⁹.

28 However, there are no provisions in law requiring the consulted authorities to reply. As a result, according to the Commission, authorities in 15 Member States failed to reply to 9 % (94 out of 1 071) of consultation requests in the audited period. This absence of replies in some cases, presents the avoidable risk that traders may be granted AEO status even though they may have committed infringements of customs or tax legislation and a Member State's customs authority was aware of this.

29 Article 39(a) of the [UCC](#) stipulates that applicants cannot become AEOs if they have committed "*serious criminal offences relating to [their] economic activity*" and thus are not compliant with customs and taxation rules. During our audit visits, various customs authorities considered that the AEO Guidelines for interpreting this criterion were limited, which in some cases allowed traders to be granted AEO status even though such criminal offences might have occurred. We analysed the [AEO Guidelines](#) and confirmed the paucity of the advice provided by the Commission in the existing Guidelines.

30 Among other benefits derived from AEO status, AEOs enjoy priority treatment, if a consignment is selected for physical or documentary controls. However, the AEO Guidelines do not indicate how Member States should apply this benefit in practice. In our survey of AEOs, only 35 % of respondents stated that they had received this benefit. Indeed, only three of the Member States we visited mentioned that they provided this benefit to AEOs, and then only under certain conditions (see also paragraph [46](#)).

⁸ Article 22 of [Regulation \(EU\) No 952/2013](#) and Articles 14 and 31 of the [Commission Implementing Regulation \(EU\) 2015/2447](#).

⁹ Article 14 (3) and 31 (2) of [Commission Implementing Regulation \(EU\) 2015/2447](#).

The performance of the AEO programme is not adequately measured

31 A common performance measurement framework is key to measuring the effective and efficient achievement of AEO programme's objectives. Assessing performance allows reallocation of customs resources towards those areas most affected by fraud and thus greater protection of the EU's financial interest. We found that the performance indicators used throughout the EU do not adequately measure the effectiveness of the AEO programme.

32 The Commission prepares annually a Customs Union Performance (CUP) report, based on data collected from Member States and other data sources. Member States provide this data on a voluntary basis. The number of Member States that provided data for the AEO related indicators varied from 9 to 26, with no single AEO-related indicator being reported by all Member States. The Commission acknowledges the weaknesses inherent to the current reporting system (see [Box 1](#)).

Box 1

Quality of Customs Union Performance data

Collecting Customs Union Performance data is voluntary. This raises questions about the completeness of the data, and thus the quality of the conclusions drawn from it. More comprehensive reporting would improve benchmarking, and could lead to practices being applied more consistently across different jurisdictions. It would also provide important aggregated information contributing to analytical capabilities for risk assessments. A more rigorous legal framework could help to homogenise practices in data collection at national level, consequently enhancing the use of key performance indicators and making the impacts of customs policy decisions clearer.

Source: Commission's [Customs Action Plan](#) of 2020.

33 The indicators used for the CUP report only address some quantitative aspects of the programme; for example, the proportion of trade involving AEOs, and the percentage of customs controls performed on AEOs. However, the AEO programme lacks adequate quantitative objectives/targets to be achieved.

The Commission has sound processes in place for concluding mutual recognition agreements, but their monitoring is not systematic

34 The Commission is responsible for concluding and monitoring AEO [mutual recognition agreements](#) with non-EU countries. The process begins with analysing the existence of the legal basis for such agreements and starting negotiations with potential MRA partners. Requests for starting the process can be made by the Council, the potential MRA partner, Member States, the Parliament and other EU bodies.

35 The process goes through the following phases¹⁰:

- legal and practical comparison of the EU's AEO programme with the non-EU country's AEO programme;
- analysis of data-exchange processes and personal data-protection rules;
- drafting and presenting for signing the MRA decision to the Council of the EU, followed by a signature during the Customs Code Committee; and
- implementation of the MRA.

36 The Commission checks the implementation of the non-EU country's AEO programme by means of jointly organised on-the-spot visits, during which it examines authorisation conditions and benefits to traders. Customs experts from the Member States also participate in these visits. If the non-EU country's programme is considered sufficiently similar to the EU's AEO programme, the Commission drafts a legal text of the agreement, which it submits to the Council for an agreement by all EU 27 Member States. Adequate data-protection standards and clauses¹¹ are critical conditions for concluding an MRA with the EU.

37 We found, that the monitoring actions were not systematically planned and implemented:

- in the Member States, through discussions in the AEO Network (see paragraph [89](#)) and fact-finding visits;

¹⁰ Section II of Part 6 of the [AEO Guidelines](#).

¹¹ Article 45 of [Regulation \(EU\) 2016/679](#).

- in non-EU MRA countries, through discussions at regular meetings of the Joint customs cooperation committees or bilateral meetings (e.g., with [China](#) and [Japan](#));
- through joint validation visits to Norway and Switzerland and updating the agreements with those countries to take account of changes in the legislative framework;
- by way of occasional, reciprocal monitoring visits to AEOs operating in the EU and those operating in the MRA country, such as the USA; and
- through desk reviews of the implementation of the agreement (e.g., a comparison to ensure compatibility of the EU security criteria with the upgraded US Customs Trade Partnership Against Terrorism minimum security criteria).

38 Consequently, the monitoring actions in some of the concluded AEO MRAs do not ensure that changes in the MRA countries AEO related programmes are analysed by the Commission in a regular and timely manner.

Member States do not grant AEOs full benefits and the Commission does not safeguard enough this entitlement

39 Customs authorities must grant benefits to AEOs from the EU and from non-EU countries which have signed a MRA with the EU¹² (see [Figure 5](#)). The benefits, which are set out in the [UCC](#), are mandatory. We checked how Member States granted these benefits and whether the Commission ensured that all AEOs received the benefits they were entitled to. We also collected AEOs' views on the benefits of the AEO programme in our EU-wide survey.

¹² Article 38 (6) of [Regulation \(EU\) No 952/2013](#).

Figure 5 – AEO benefits

Benefit	Authorised economic operator customs simplifications	
	AEOC	AEOs
Fewer controls	✓	✓
Prior notification in case of selection for control	✓	✓
Priority treatment	✓	✓
Request for place of control	✓	✓
Indirect benefits	✓	✓
Easier admittance to customs simplifications	✓	✓
Mutual recognition		✓

Source: ECA.

Member States do not grant all AEOs their full benefits

40 The UCC sets out several benefits for registered AEOs. Customs authorities are responsible for granting these benefits. If Member States treat AEOs similarly to other economic operators, traders have little incentive to register for the programme.

41 Equal treatment of AEOs across the EU encourages traders to apply for the AEO programme. In addition, the benefits granted to AEOs result in reduced operational time and costs for AEOs when performing customs activities and permits customs authorities to better concentrate their resources on riskier areas. Increasing the number of AEOs in the supply chains correspondingly increases its security and promotes legitimate trade, with favourable consequences both for the EU economy and the EU budget. However, unequal treatment of AEOs within the EU does not ensure a level playing field in the single market and increases operational and financial risks related to customs operations and the EU budget.

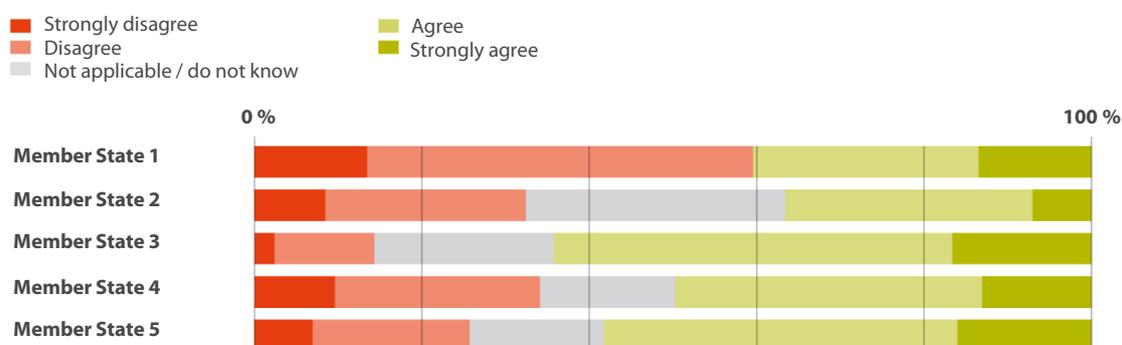
42 Our survey of AEOs shows the following:

- only 60 % of respondents noticed a reduction in physical and document-based controls on account of their AEO status;
- only 49 % stated that they had received prior notifications when selected for controls; and
- only 35 % stated that they had received priority treatment when selected for controls.

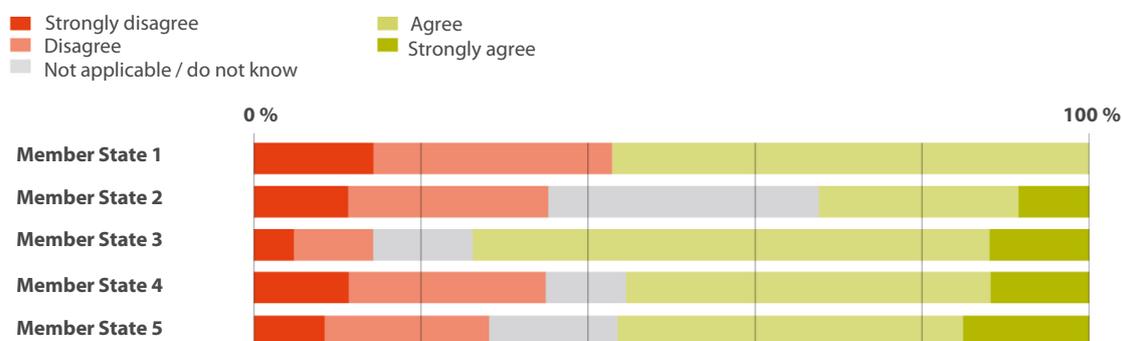
43 AEOs must be subject to fewer physical and document-based controls than other economic operators¹³, except where the goods have been identified by customs authorities to present financial, security and safety or other non-financial risks. However, the benefits were not uniformly granted across the Member States we visited. One Member State, for example, granted AEOs an overall 50 % reduction in physical and documentary controls; another Member State selectively took AEO status into account in its risk-assessment procedures for selecting traders for checks. Some of the respondents to our survey did not consider that they receive fewer physical and documentary controls (see [Figure 6](#)).

Figure 6 – Fewer physical and documentary controls

Fewer physical and document based controls AEOs



Fewer physical and document based controls AEOC



Source: ECA, based on the results of the ECA AEO Survey.

44 If an AEO's consignment is selected for checks, the AEO is entitled to be notified before the goods arrive¹⁴, thus allowing it to prepare (documents, evidence, etc.) and have its consignments released faster for free circulation in the EU. Three out of the five visited Member States mentioned that they grant it selectively. Some of the

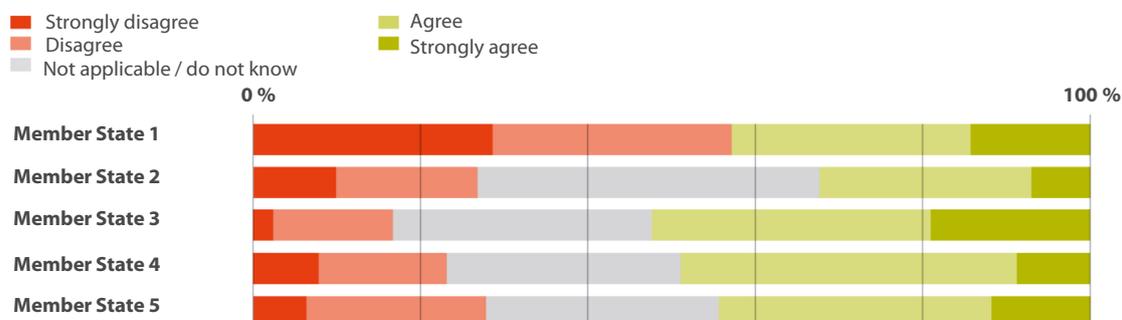
¹³ Article 24 (1) of [Commission Delegated Regulation \(EU\) 2015/2446](#).

¹⁴ Article 24 (2) of [Commission Delegated Regulation \(EU\) 2015/2446](#).

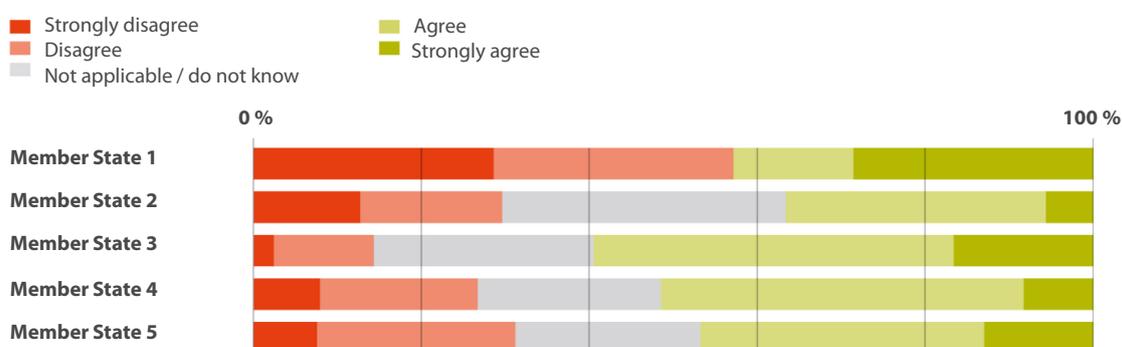
respondents to our survey did not consider that they received this benefit (see [Figure 7](#)).

Figure 7 – Prior notification of controls

Prior notification in the case of selection for physical control AEOs



Prior notification in the case of selection for customs control AEOs



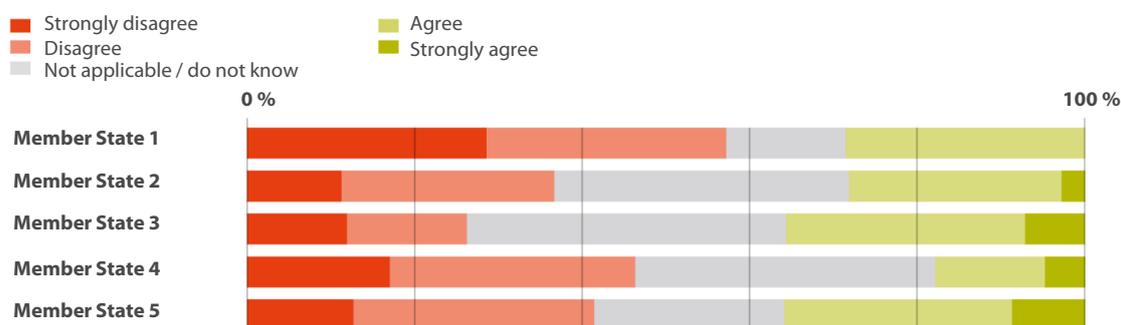
Source: ECA, based on the results of the ECA AEO Survey.

45 Under the AEO rules, consignments declared by AEOs must be prioritised if they are selected for checks¹⁵. Such a prioritisation is intended to further increase the speed of the AEOs' customs operations. We found that although four of the five visited Member States stated that they granted this benefit consistently, some of the respondents to our survey did not consider that they received priority treatment (see [Figure 8](#)).

¹⁵ Article 24 (4) of Commission Delegated Regulation (EU) 2015/2446.

Figure 8 – Priority treatment in control procedures

Priority treatment if selected for control

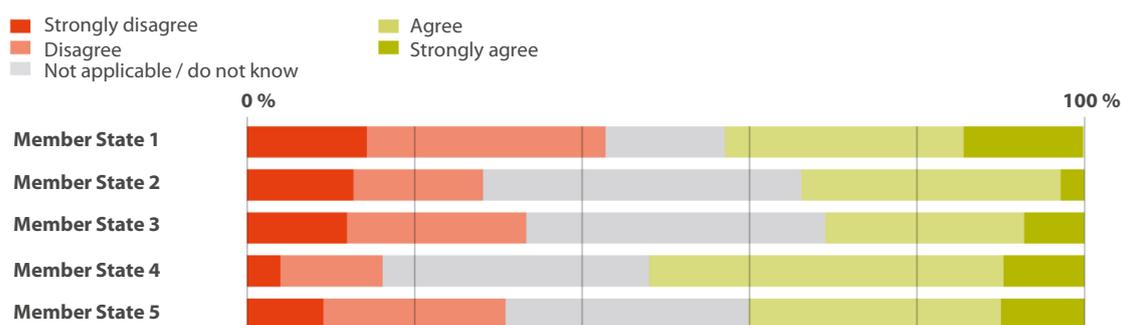


Source: ECA, based on the results of the ECA AEO Survey.

46 AEOs may request that customs authorities perform their customs checks in a different place from where the goods have to be presented to customs¹⁶. In many instances, it is easier and speedier for a trader to transport its consignments directly to its place of business (warehouse, factory, etc.) and have it checked for customs purposes there. The Member States we visited stated that they granted this benefit in certain cases (e.g. if the AEO has an approved customs warehouse; if the place of controls is not far away from the customs office, etc.). Some of the respondents to our survey did not consider that they could change the place of controls (see [Figure 9](#)).

Figure 9 – Possibility to change the place of controls

Possibility to request a specific place for customs controls



Source: ECA, based on the results of the ECA AEO Survey.

47 Contrary to the legislative requirements, we noted that some Member States only grant benefits to AEOs with certain roles in the supply chain. For example, one Member State only grants AEO-related benefits if the declarant (party declaring the goods in customs) or the consignee (party to whom the goods are consigned) is an AEO. Another Member State only grants benefits to importers (the person or business for whom an import declaration is made) and declarants and another one grants the

¹⁶ Article 24 (4) of [Commission Delegated Regulation \(EU\) 2015/2446](#).

benefit of fewer controls only to consignees. Responses to our survey to AEOs were consistent with these observations, with traders playing different roles in the supply chain perceiving different benefits (see [Figure 10](#)).

Figure 10 – AEO’s view of the benefits received based on their role in the supply chain in all Member States

		Satisfaction with AEO benefits								
		Easier admittance to customs simplifications	Fewer physical and document-based controls (AEOF)	Fewer physical and document-based controls (AEOC)	Prior notification in the case of selection for physical control (AEOF)	Prior notification in the case of selection for customs control (AEOC)	Priority treatment if selected for control	Possibility to request a specific place for customs controls	Mutual Recognition with third countries	
Average		74 %	63 %	61 %	58 %	58 %	50 %	58 %	61 %	
Role in the international supply chain	Manufacturer	65 %	77 %	68 %	66 %	62 %	62 %	56 %	61 %	64 %
	Exporter	64 %	76 %	67 %	65 %	61 %	61 %	55 %	60 %	63 %
	Importer	63 %	76 %	66 %	64 %	60 %	60 %	54 %	60 %	63 %
	Carrier	60 %	75 %	63 %	61 %	59 %	59 %	49 %	59 %	61 %
	Other	60 %	73 %	60 %	60 %	59 %	60 %	50 %	61 %	59 %
	Warehouse keeper/ storage facility operator	60 %	75 %	62 %	60 %	57 %	58 %	48 %	58 %	59 %
	Freight forwarder	57 %	72 %	58 %	56 %	54 %	54 %	43 %	56 %	59 %
	Customs agent /Representative	56 %	73 %	59 %	56 %	54 %	54 %	42 %	56 %	58 %

Note: To measure the satisfaction with specific benefits, all respondents’ answers who participate in specific roles in the supply chain were taken into account. The answers were scaled to percentages, where higher value means higher level of satisfaction.

Source: ECA, based on the results of the ECA AEO Survey.

Member States rarely recognise the status of foreign AEOs

48 AEO status must be recognised by all Member States¹⁷. Customs authorities must grant all appropriate benefits to AEOs registered in their own jurisdiction, in other EU countries, and in MRA countries.

49 The customs authorities of the Member States we visited did not have systems in place to automatically recognise AEO status when it had been granted by other Member States. Therefore, they only granted AEO-related benefits to traders registered in other Member States, when made aware of their AEO status when performing any customs-related operations. As an exception to this, the Netherlands

¹⁷ Article 38 (4) of [Regulation \(EU\) No 952/2013](#).

extracts details of AEOs registered in other Member States from the Commission's [economic operators system](#), for use it in its customs clearance system.

50 As a consequence, EU AEOs did not receive any AEO-related benefits in Member States other than the Netherlands, unless they explicitly drew attention to their AEO status in their interactions with the foreign customs authority. Even this was no guarantee of benefits actually being granted. Spain, for example, does not recognise AEO status granted by other Member States unless the trader is registered as a Spanish taxpayer. Denmark must issue a technical number in its customs clearance system in order for benefits to be granted. Bulgaria does not recognise AEO status granted by other Member States.

51 Since Member States do not provide an equal treatment to all AEOs, there is no level playing field for AEOs registered in various Member States, breaching the main aim of the EU legislation and of the programme. In addition, AEOs performing customs operations in other Member States are unfavourably treated compared with local AEOs.

52 For AEO status to be consistently acknowledged and the associated benefits and obligations applied, such status would need to be automatically recognised within customs risk-management systems, thus requiring close collaboration between the AEO and risk-management departments of the customs authorities.

53 In the Member States we visited, collaboration between these departments was uncommon. When it did exist, it was almost never formalised, and tended to be a one-sided arrangement, the terms of which were dictated by the risk-management department. AEO status was not always taken into account in risk-management systems, and a lower risk score was not always assigned to AEOs for customs operations. The Commission confirmed that a similar situation exists in some other Member States.

54 The EU has concluded mutual recognition agreements with a number of non-EU countries. Under these agreements, MRA AEOs are entitled to receive the same benefits as EU AEOs in their dealings with EU Member States' customs authorities and EU AEOs must enjoy reciprocal benefits in MRA countries.

55 We found that the customs risk-management systems of the Member States we visited did not automatically recognise the status of MRA AEOs (except the Netherlands, which extracts details concerning MRA AEOs from the Commission's [EOS](#) system). To receive benefits, MRA AEOs were required to draw explicit attention to

their AEO status in their interactions with the foreign customs authority. Even in such a case, similar restrictions to those mentioned in paragraph 51 still applied.

56 Consequently, Member States do not provide in a systematic way equal benefits to MRA AEOs as for their AEOs, leading to discouraging MRA AEOs to pursue obtaining such benefits. We found that notwithstanding the fact that Member States are rarely and selectively granting benefits to MRA AEOs, they also do not monitor how MRAs are being implemented by foreign customs authorities.

57 Furthermore, results of our survey indicate that the status of AEOs registered in the EU is sometimes not recognised by MRA countries and EU registered AEOs do not always receive the MRA benefits(see [Figure 11](#)).

Figure 11 – Recognition of EU AEO status in MRA countries

Mutual recognition with third countries



Source: ECA, based on the results of the ECA AEO Survey.

58 The Commission recognised the problem and has analysed it in the context of the AEO fact-finding visits to the Member States. In this context, it was concluded that more actions are needed to minimise such impact.

The Commission does not sufficiently monitor that Member States grant AEOs the benefits associated with their status

59 The [Customs Union](#), including the AEO programme, is managed centrally by the EU. While the programme is implemented by customs authorities in Member States, the rules governing its implementation are set centrally. These rules ought to ensure consistency and facilitate the equal recognition of AEO status throughout the EU. In reality, though, the benefits available to AEOs vary significantly between Member States.

60 Responsibility for making legislative proposals concerning the Customs Union and in particular, monitoring the proper implementation of the AEO programme, rests with the Commission. The Commission performed a very thorough monitoring exercise of the AEO programme in 2015, which recommended that a further monitoring exercise be carried out within the following five years.

61 In 2019, the Commission, together with all Member States, in the AEO Network, issued an AEO Action Plan, in which various areas of concern regarding the AEO programme were identified such as:

- AEOs are not controlled or not sufficiently controlled;
- non-harmonised or no sufficient practical implementation in the granting of the authorisation and management of the authorisation processes; and
- insufficient AEO authorisation management, weak monitoring.

62 The action plan did not establish clear deadlines up to when the actions should be realised. At the date of completing our audit work, Commission and Member States had partially implemented actions related to some of the areas, while others had not been started yet.

63 Related to the practical implementation in granting of the authorisation and management of the authorisation process, the Commission organised, together with all Member States, fact-finding visits. During this visits, Commission representatives discuss with Member States customs authorities operational aspects related to the implementation of the AEO programme. The visits included a questionnaire on the implementation of the AEO programme in the visited Member States and on-site visits to economic operators to see the application of the programme at this level. The visits did not include walk-through tests to see how benefits are implemented in practice by Member States.

64 While Member States are not always granting AEOs the related benefits, they do not report systematically information on the granted benefits to the Commission. Although the Member States and the Commission discuss benefits during the [AEO Network meetings](#), the Commission currently has only a limited information of which benefits are granted by which Member States and to which AEOs.

65 The Commission's monitoring actions provide an incomplete picture of the implementation of the programme in Member States and how the customs authorities

are granting the related benefits. In this respect, the Commission does not fully ensure that the customs legislation is observed by all Member States and legal benefits are equally granted to AEOs across the EU.

Member States have sound systems for granting authorisations, but with some shortcomings in their management

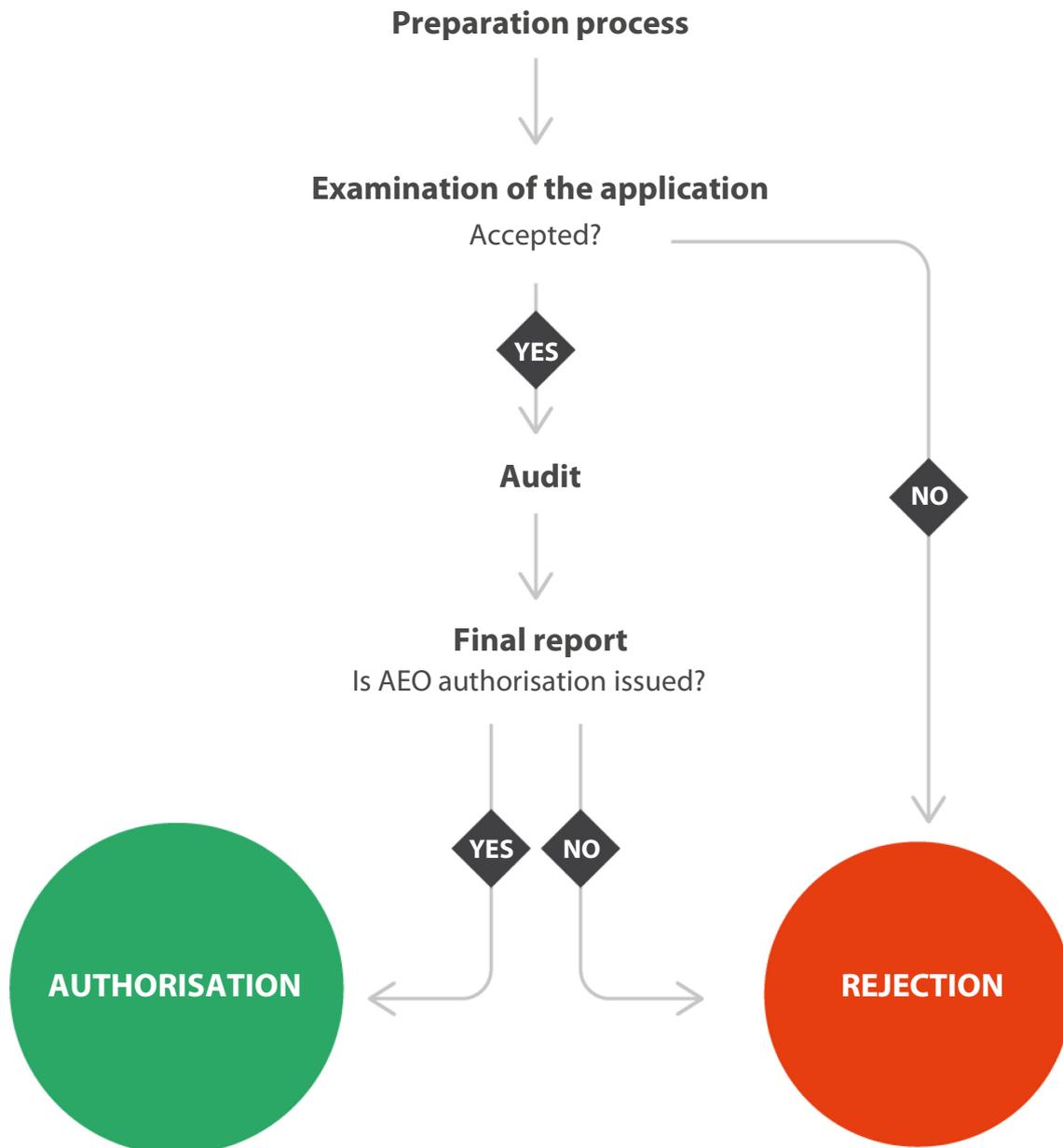
66 To ensure the EU's AEO programme is functioning well and is achieving its desired objectives, AEOs must be trustworthy and have in place the required safeguards to prevent customs and tax infringements. In the five Member States we visited, we assessed how the customs authorities managed AEO authorisations.

67 We also checked the effectiveness of customs risk-management systems in ensuring that AEOs' customs declarations did not infringe EU customs and tax legislation. Finally, we examined how Member States cooperate among themselves, with the Commission, with non-EU countries, and with other relevant stakeholders, especially in terms of exchanging best practices and solving issues concerning the implementation of the programme

Member States have proper authorisation processes in place

68 Member States must have clear authorisation processes in place, with detailed national instructions and procedures. The standard authorisation process for AEOs is shown in [Figure 12](#) and presented in detail in [Annex V](#).

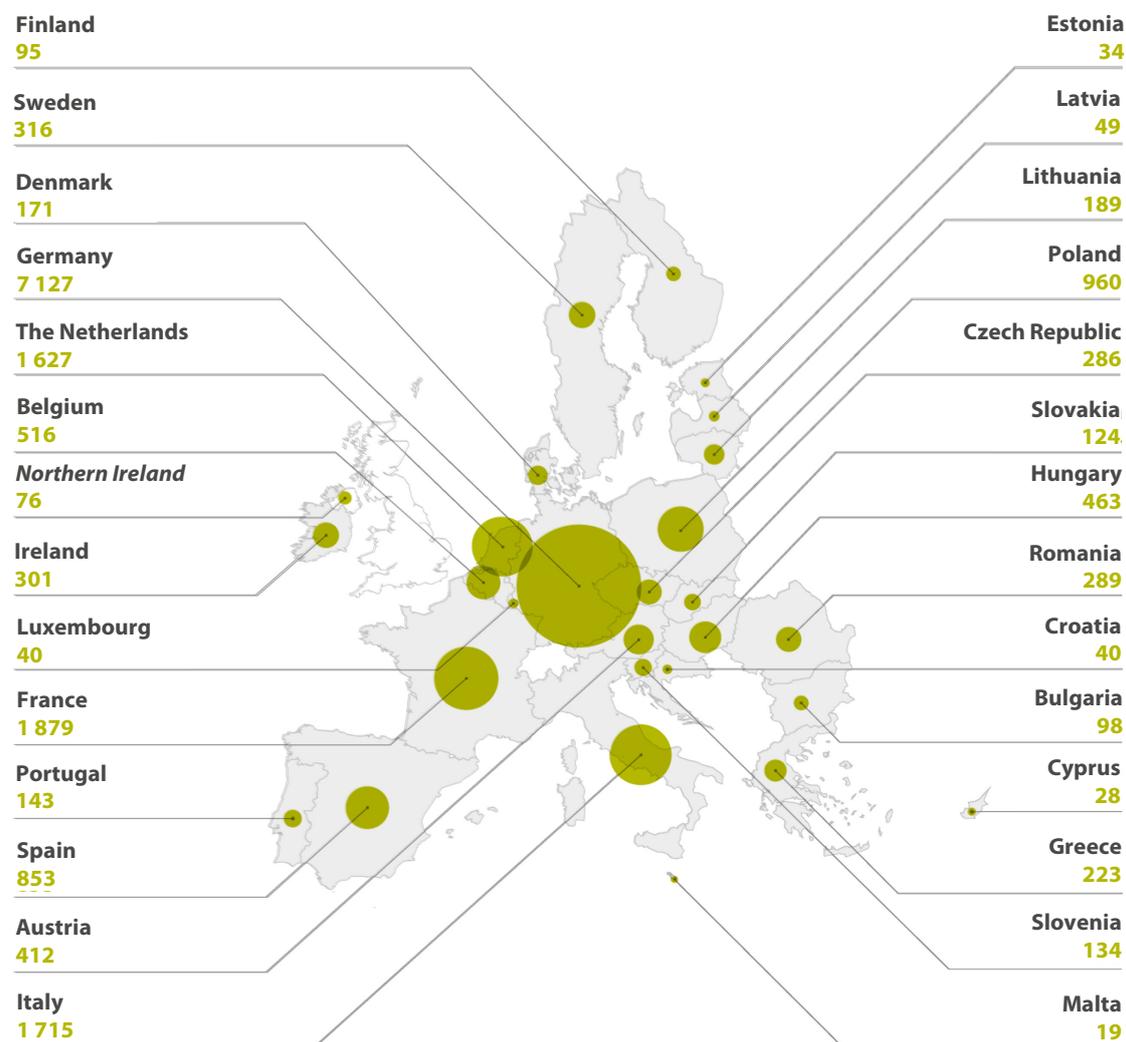
Figure 12 – AEO authorisation process



Source: ECA.

69 AEO authorisations reached 18 210 at the end of 2022 (see [Figure 13](#)).

Figure 13 – AEO authorisations at 31 December 2022



Source: ECA, based on data supplied by the Commission.

70 We found that the five visited Member States had proper authorisation processes in place. We noted a number of particularly good practices.

- In Denmark, Netherlands and Spain, customs authorities were strongly advising potential applicants to contact them to assess their compliance with the authorisation criteria before they submitted their official authorisation requests. This led to smoother authorisation processes.
- In Ireland, as part of the authorisation process, candidate AEOs were required to commit to informing the customs authorities about any changes which could affect their eligibility for the AEO programme¹⁸. The Netherlands imposed a

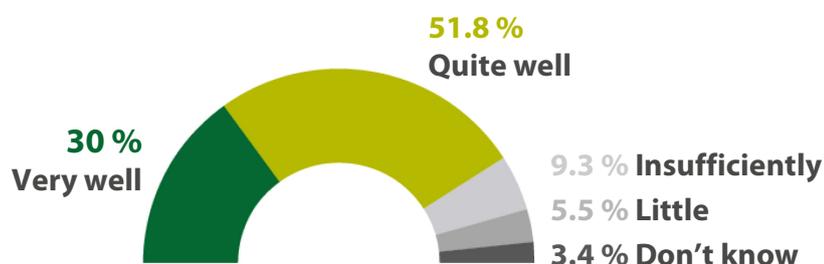
¹⁸ This step also satisfied the legal notification obligation set out in Article 23 (2) of [Regulation \(EU\) No 952/2013](#).

similar requirement on applicants in the management declaration accompanying the AEO application.

71 We reviewed five authorisation files in each of the visited Member States (see *Annex II*). Our examination, which included walkthrough tests and documentary analysis of all stages of the authorisation process, found no major issues. Member States have clear criteria to carry out the authorisation audits. They collect and analyse appropriate information to perform the required risk analysis and to prepare effective audits. In some files, we found that the 120-day authorisation timeframe stipulated in legislation¹⁹ had been exceeded. In some cases, applicants had requested extensions to allow them to carry out adjustments to fulfil the authorisation criteria. In other cases, customs authorities had requested processing-time extensions. However, all of these delays were properly justified and permitted under the AEO legislation²⁰.

72 The AEOs that replied to our survey showed a high satisfaction rate concerning the authorisation process, with 82 % of the respondents being satisfied or very satisfied (*Figure 14*).

Figure 14 – ECA AEO survey - How did the AEO authorisation process meet your expectations?



Source: ECA, based on the results of the ECA AEO Survey.

Inconsistencies exist in the monitoring and management of AEO authorisations

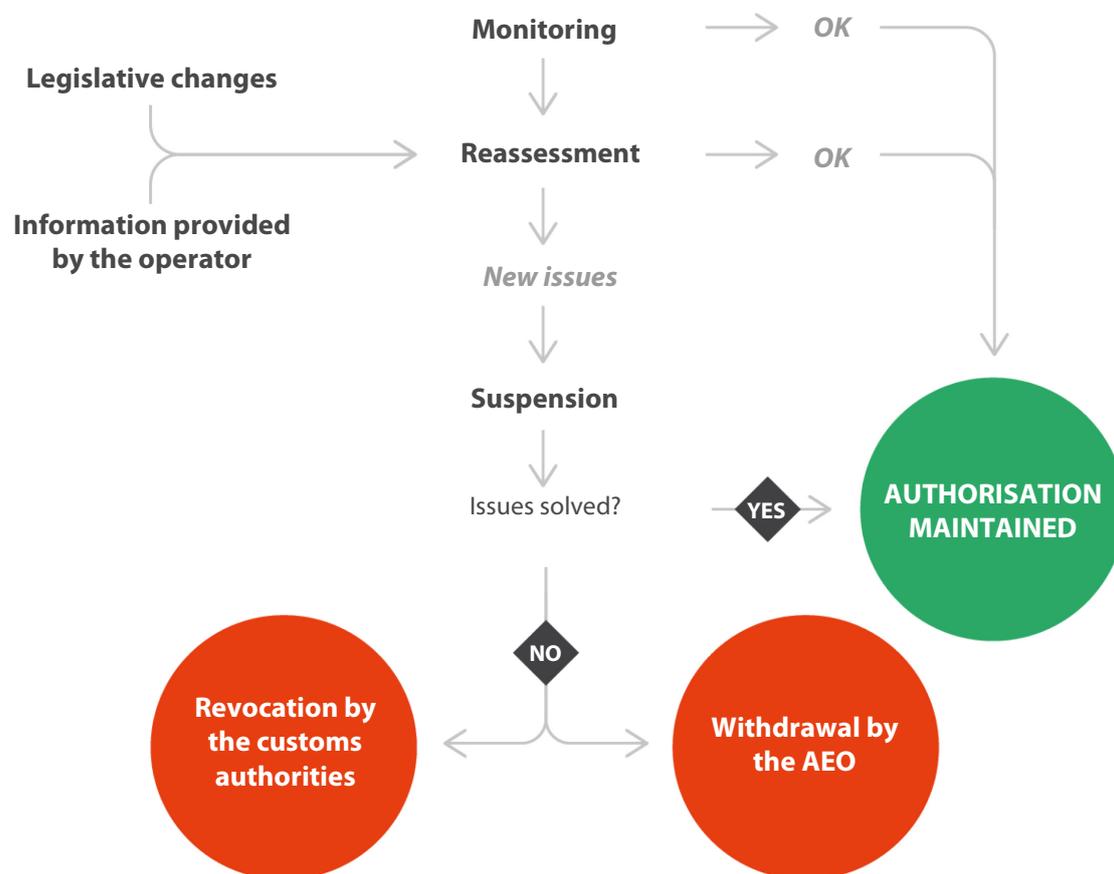
73 Customs authorities are responsible for managing AEO authorisations after they have been granted (see *Figure 15*). This entails continuously monitoring AEO authorisations to ensure that AEOs remain compliant with the eligibility criteria and programme conditions. In addition, they must reassess AEOs, either when changes in

¹⁹ Article 22 (3) of Regulation (EU) No 952/2013.

²⁰ Article 22 (3) of Regulation (EU) No 952/2013.

the legislation requires it or when necessary as a result of a monitoring action or due to information provided by the AEO, and suspend or revoke their AEO status, if the circumstances demand it (see [Annex VI](#)).

Figure 15 – Management of the AEO authorisations



Source: ECA.

74 In the Member States we visited, the customs authorities had drawn up a monitoring plan for each AEO authorisation file we examined. Under these plans, AEOs are visited in person at least once every three years to check that they continue to fulfil the safety and security criteria of the AEO programme²¹. However, not all the plans included triennial visits to check other authorisation criteria as recommended in the [AEO Guidelines](#) (e.g., the system for managing commercial and transport records²²).

75 Where risks or non-conformities that might affect AEO authorisation are detected during the monitoring process, customs authorities generally discuss the issues with the

²¹ Article 39 (e) of [Regulation \(EU\) No 952/2013](#).

²² Article 39 (b) of [Regulation \(EU\) No 952/2013](#).

AEO and agree on corrective measures and a timeframe. If an AEO does not fully comply, intermediary measures, such as an increase in the number of customs controls can be adopted before their AEO status is suspended.

76 As a good practice, the Danish authorities issue an AEO “service check report” at the trader’s request. This report provides the AEO with a clear view of its customs and tax debts and obligations and other matters that might require the trader’s attention concerning its AEO obligations.

77 Some AEOs have permanent business establishments located in other Member States, which are part of the main company, and without a separate legal personality. The provisions in EU legislation²³ for monitoring these permanent business establishments require the customs authorities of the Member States where they are situated, to inform immediately, the customs authorities that granted the authorisation, of any factors potentially affecting the status.

78 Moreover, the [AEO Guidelines](#) foresee that *“the close cooperation between the competent customs authority and the customs authorities of the Member States where the separate permanent business establishments are situated is of significant importance”*. Also, it is recommended in the guidelines that the competent customs authority should provide one general monitoring plan for all the AEOs’ activity, based on individual plans made by the Member States where the permanent business establishments are situated. In practice, such a plan was not developed in the visited Member States and the customs or tax law infringements at permanent business establishments’ level are not brought to the attention of the customs authority, which granted the AEO status. Therefore, there is no basis for reassessing the AEO status in the light of any such infringements²⁴.

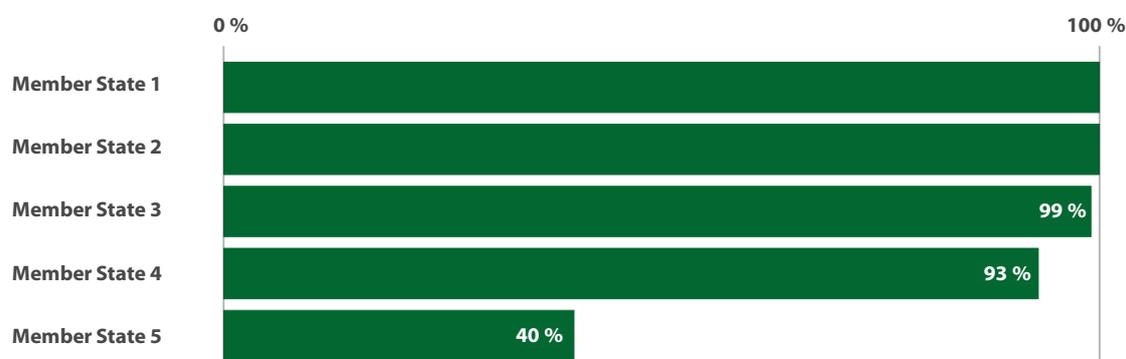
79 Major changes affecting the AEO authorisation criteria, such as legal changes at EU level and changes in a trader’s ownership, business model or premises, can trigger a reassessment of AEO status. The reassessment can be partial or full. If a trader expands by acquiring new premises, for example, only the new premises may need to be assessed, not the old one. Further-reaching changes, such as changes to the UCC, may trigger a full reassessment of the AEO authorisation.

²³ Article 35 (1) of [Commission Implementing Regulation \(EU\) 2015/2447](#).

²⁴ Article 39 (a) of [Regulation \(EU\) No 952/2013](#).

80 When the UCC entered into force in 2016, it introduced new AEO criteria and conditions²⁵. These changes in the UCC legislation required Member States to perform a full reassessment of all 14 707 existing AEO authorisations before 1 May 2019. Not all the customs authorities in the Member States we visited performed a full reassessment within this deadline (see [Figure 16](#)). In one Member State, the customs authorities performed full reassessments for 40 % of existing authorisations and for the remainder, only carried out a partial reassessment procedure, which did not review all the required criteria. Consequently, some traders had maintained their AEO status even though customs authorities had been unable to check that they still fulfilled all the AEO criteria.

Figure 16 – Full reassessments of AEO authorisations up to 1 May 2019



Source: ECA, based on Member States data.

81 When an AEO no longer fulfils one or more of the authorisation criteria, its AEO authorisation can be suspended or revoked. Both processes can happen either at the initiative of the AEO (for example, an AEO may request time to comply with criteria it has not met) or at the initiative of the customs authority (for example, if an AEO declares bankruptcy or does not have any customs activities). The customs authorities of the visited Member States had generally managed the suspension and revocation processes well. They had ensured that AEOs were not granted any benefits during suspension periods or after their AEO status was revoked.

82 The AEO legislation²⁶ requires that Member States record all AEO-related monitoring actions, such as reassessments, suspensions and revocations, in the EU [economic operators system](#), created and managed by the Commission. However,

²⁵ E.g. Article 39 (d) of [Regulation \(EU\) No 952/2013: employees dealing with customs matters for the AEOs should have practical standards of competence or professional qualifications directly related to the activity carried out.](#)

²⁶ Article 30 of [Commission Implementing Regulation \(EU\) 2015/2447.](#)

Member States often do not do so and when they use the system, they do so inconsistently.

83 As an example, of the 14 707 reassessments (see paragraph **80**) that should have been performed by Member States by 1 May 2019, 13 003 were registered in the economic operators system. The remaining reassessments were not registered by the Member States although they should have been. All the AEO-related monitoring operations should have been recorded in the [economic operators system](#), but the Commission has no practical means of checking whether AEO-related monitoring actions were properly recorded by Member States. As a result, the Commission could not provide us with accurate data on the number and status of AEO authorisations, suspensions and revocations.

Member States have shortcomings in their risk-management systems and in assessing AEOs' internal controls

84 The customs authorities we visited used automated customs risk-management systems. These systems must include credibility checks to prevent non-compliant customs declarations from being accepted by electronic clearance systems. In each visited Member State, we made a risk-based selection of 30 import customs declarations submitted by AEOs.

85 Under EU legislation²⁷, goods with a value of less than €150 can be admitted into the EU free of import customs duties. This is known as “low-value consignment relief”. In our reports of 2017²⁸ and 2019²⁹, we audited how the Member States' customs-clearance systems accepted these declarations. We found that declarations were sometimes accepted by the systems although the intrinsic value of goods was higher than €150, with the goods not being eligible for the low value consignments exemption and no customs duties were collected for these low value consignments declarations³⁰.

²⁷ Article 23 of [Council Regulation \(EC\) No 1186/2009](#).

²⁸ [Special report 19/2017](#): “Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU”.

²⁹ [Special report 12/2019](#) :“E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved”.

³⁰ See recommendation 9 b) of [Special report 19/2017](#) and recommendations 2 c) and d) of [Special report 12/2019](#).

86 During our audit, we checked if the electronic customs-clearance systems of the visited Member States had still accepted such declarations. We found out that for two of them, they erroneously accepted seven of 60 import declarations submitted by AEOs for goods with a value above that threshold. However, although the declarations were wrongly accepted by the customs-clearance systems, customs duties relief was not granted and the correct customs duty was charged in these instances. This indicates weaknesses in the internal control systems applied to the automatic systems used for monitoring customs declarations.

87 We also found that three visited Member States erroneously accepted seven of 90 import declarations submitted by AEOs breaching the EU legislation (e.g., customs declarations for alcoholic beverages or tobacco products were submitted erroneously, as low value consignments goods or as private consignments, despite being commercial transactions)³¹. Although the EU's financial interest was not affected in these specific cases, since the customs duties were correctly calculated, this indicates more general weaknesses in the internal controls of AEOs, which can lead to further infringements affecting the EU budget.

Level of interaction between Member States, the Commission and AEOs indicated satisfactory cooperation

88 Member States' customs authorities regularly cooperate with the Commission under the auspices of the [AEO Network](#). Meetings take place twice yearly, or more frequently, if requested by participants. The network, which is chaired by the Commission, gives Member States a forum to:

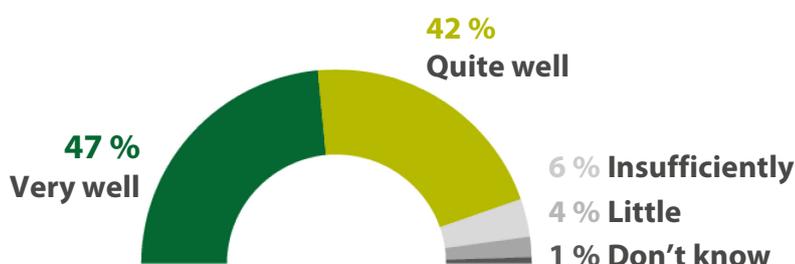
- discuss the practical implementation of the AEO programme across the EU;
- agree on appropriate measures to be taken to overcome difficulties and ensure consistent implementation;
- discuss changes to the AEO programme;
- prepare amendments to the AEO Guidelines and other operational tools;
- obtain guidance on aspects of the MRA programme; and
- share their views on developments in the AEO programme.

³¹ Articles 24 to 26 of [Council Regulation \(EC\) No 1186/2009](#).

89 The Commission is very active in the [World Customs Organization's](#) activities regarding the EU and worldwide AEO programmes. It actively contributes to the overall discussions related to AEO programmes and provides input on how those programmes should be developed and improved. The Commission also invites other stakeholders (such as the [Trade Contact Group](#)) to submit suggestions for improvements to the EU's AEO programme.

90 The AEOs replying to our survey presented a high satisfaction rate when dealing with the customs authorities from the Member States where they are registered ([Figure 17](#)).

Figure 17 – How would you describe your cooperation with the competent customs authorities (contact points etc.) in your country?



Source: ECA, based on the results of the ECA AEO Survey.

91 In addition, the surveyed AEOs stated that they receive sufficient support from their customs authorities when dealing with AEO related issues ([Figure 18](#)).

Figure 18 – Do you receive sufficient support from the customs authorities to comply with the EU AEO programme's requirements?



Source: ECA based on the results of the ECA AEO Survey.

92 Lastly, when asking how often they were contacted by the customs authorities related to their AEO authorisation, AEOs generally indicated a continuous communication with the customs ([Figure 19](#)).

Figure 19 – Have you been contacted by the customs authorities in relation to the EU AEO programme on a regular basis?



Source: ECA, based on the results of the ECA AEO Survey.

Conclusions and recommendations

93 Our overall conclusion is that the EU AEO programme facilitates legitimate trade, enhances supply chain security and the protection of the EU financial interest, but the management, regulatory framework and the implementation, including AEO benefits, require changes and improvements. Below, we make recommendations to improve the programme's regulatory framework and its implementation.

94 The legislative framework, though generally robust, has some weaknesses. We found that the visited Member States interpret the authorisation criteria of “serious and repeated infringements” differently, due to the lack of detailed definition in the current legislation. In addition, it is not mandatory for Member States to reply to the consultations initiated by other Member States during the AEO authorisation procedure. The AEO Guidelines lack provisions on the implementation of the priority treatment if an AEO consignment is selected for control (see paragraphs [21](#) to [30](#)).

Recommendation 1 – Improve the regulatory framework

To improve the regulatory framework of the EU AEO programme, the Commission should:

- (a) elaborate the concept of “serious and repeated infringements”;
- (b) make it mandatory for consulted Member States' customs authorities to reply to consultations about the fulfilment of the AEO criteria in the AEO legislation; and
- (c) provide explanations on the priority treatment of AEO consignments selected for control in the AEO Guidelines.

Target implementation date: 2025

95 The AEO programme does not have an adequate performance measurement framework in place, including quantitative targets and objectives. The current reporting system is voluntary, unverifiable and incomplete (see paragraphs [31](#) to [33](#)).

Recommendation 2 – Improve the current performance measurement framework

The Commission, together with Member States, should improve the common framework for measuring the performance of the EU AEO programme.

Target implementation date: 2025

96 The Commission has sound processes in place for concluding mutual recognition agreements with non-EU countries, but lacks systematic monitoring of their implementation (see paragraphs [34](#) to [38](#)).

97 We found, that visited Member States grant some benefits to their registered AEOs inconsistently. Some Member States only grant benefits to AEOs with certain roles in the supply chain (see paragraphs [39](#) to [47](#)).

98 In addition, Member States recognise AEO authorisations granted by other Member States and MRA countries only under certain conditions. Only one of the Member States we visited carried out credibility checks between customs systems and the economic operators system when verifying AEO recognition (see paragraphs [48](#) to [58](#)). The Commission does not properly monitor whether Member States grant AEOs the benefits to which they are entitled (see paragraphs [59](#) to [65](#)).

99 We found, that the design and implementation of the EU AEO authorisation process in the visited Member States is complete, with clear instructions and procedures (see paragraphs [66](#) to [72](#)). Member States generally manage AEO authorisations well. However, AEOs' branches ("permanent business establishments") in other Member States are not continuously monitored (see paragraphs [73](#) to [81](#)).

100 Variations exist in how Member States monitor AEO authorisations. The Commission's economic operators system does not allow proper monitoring of the AEO-related actions within the EU, because Member States do not consistently record their management actions in the economic operators system (see paragraphs [82](#) and [83](#)).

101 Cooperation between Member States, with the EU Commission and other stakeholders works well, and the AEOs are satisfied with their collaboration with the customs authorities (see paragraphs [88](#) to [92](#)).

Recommendation 3 – Improve the management of the AEO programme

To reach the objectives of the EU AEO programme of increased legitimate trade and supply chain security, the Commission should regularly monitor the correct application of the AEO programme under the UCC legislation and the mutual recognition agreements and, in particular:

- (a) regularly monitor that Member States grant the entitled benefits to all AEOs;
- (b) monitor that Member States coordinate their monitoring actions for AEO traders with permanent business establishments in other Member States; and
- (c) monitor that Member States consistently use the economic operators system for registering all AEO authorisation management actions.

Target implementation date: 2025

This report was adopted by Chamber IV, headed by Mr Mihails Kozlovs, Member of the Court of Auditors, in Luxembourg at its meeting of 25 April 2023.

For the Court of Auditors

Tony Murphy
President

Annexes

Annex I – ECA audit approach at the level of the Commission

In order to collect information and data that could be useful for the audit fieldwork in the Member States, during the preparatory stage, we organised videoconferences with DG TAXUD.

Finally, we examined pertinent performance information, such as the Management plans, annual activity reports and Customs Union Performance (CUP) reports of DG TAXUD.

During the audit fieldwork, we sent a general questionnaire to the Commission. This addressed the question of whether the Commission has provided a sound framework for the EU AEO programme, focussing on four key areas: (i) establishment of an adequate legislative framework and guidelines; (ii) monitoring the implementation and addressing any shortcomings in its implementation; (iii) establishment of a sound performance measurement system and assessment of its benefits; and (iv) cooperation with Member States, third countries and other relevant stakeholders.

In addition, we carried out an audit visit to clarify pending issues.

Annex II – ECA audit approach in Member States

We selected five Member States - Bulgaria, Denmark, Ireland, the Netherlands and Spain - based on the following risk criteria:

- Number of AEOs in each Member State;
 - Average import value of AEO related imports;
 - Percentage of reassessed AEOs by each Member State; and
 - Percentage of AEO small and medium-sized enterprises and micro enterprises in the total number of AEOs.

During the audit fieldwork we focused on the implementation of the AEO programme, namely the authorisation and monitoring processes, AEO related risk strategies and customs controls and cooperation.

In order to address the question whether Member States have implemented properly the EU AEO programme, we sent a questionnaire to the selected Member States.

On the spot, we discussed the replies to the questionnaire with the experts from customs authorities in the field of AEO. In addition, we selected risk-based samples to verify:

- 5 AEO applications;
- 15 AEO management authorisations (monitoring, reassessments and suspensions/revocations); and
- 30 import customs declarations from AEOs.

Annex III – EU AEO programme - Legal framework

Unions Customs Code (UCC)

[Regulation \(EU\) No 952/2013](#) of the European Parliament and of the Council of 9 October 2013 laying down the UCC

UCC Delegated Act (UCC DA)

[Commission Delegated Regulation \(EU\) 2015/2446](#) of 28 July 2015 supplementing Regulation (EU) 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the UCC

UCC Implementing Act (UCC IA)

[Commission Implementing Regulation \(EU\) 2015/2447](#) of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the UCC

UCC Transitional Delegated Act (UCC TDA)

[Commission Delegated Regulation \(EU\) 2016/341](#) of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the UCC where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446

EU AEO Mutual Recognition Agreements (MRAs)

- **Norway:** [Decision of the EEA Joint Committee No 76/2009](#) of 30 June 2009 amending Protocol 10 on simplification of inspections and formalities in respect of carriage of goods and Protocol 37 containing the list provided for in Article 101; amended by [Decision of the EEA Joint Committee No 130/2021](#) of 15 March 2021 amending Protocol 10 to the EEA Agreement, on simplification of inspections and formalities in respect of carriage of goods (2021/1039)
- **Switzerland:** [Council Decision](#) of 25 June 2009 concerning the provisional application and conclusion of the Agreement between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures (2009/556/EC); amended by [Decision No 1/2021 of the EU-Switzerland Joint Committee](#) of 12 March 2021 amending Chapter III of, and Annexes I and II to, the Agreement between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures (2021/714)

- **Japan:** [Decision No 1/2010 of the Joint Customs Cooperation Committee](#) of 24 June 2010 pursuant to Article 21 of the Agreement between the European Community and the Government of Japan on Cooperation and Mutual Administrative Assistance in Customs Matters regarding mutual recognition of Authorised Economic Operators programmes in the European Union and in Japan (2010/637/EU)
- **Andorra:** [Decision No 1/2012 of the EU-Andorra Joint Committee](#) of 25 January 2012 establishing the list of customs security provisions provided for by Article 12b(1) of the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra (2012/57/EU)
- **United States of America:** [Decision of the US-EU Joint Customs Cooperation Committee](#) of 4 May 2012 regarding mutual recognition of the Customs-Trade Partnership Against Terrorism program in the United States and the Authorised Economic Operators programme of the European Union (2012/290/EU)
- **China:** [Decision of the Joint Customs Cooperation Committee established under the Agreement between the European Community and the Government of the People`s Republic of China on cooperation and mutual administrative assistance in customs matters](#) of 16 May 2014 regarding mutual recognition of the Authorised Economic Operator programme in the European Union and the Measures on Classified Management of Enterprises Program in the People's Republic of China (2014/772/EU)
- **United Kingdom:** [Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part](#)
- **Moldova:** [Decision No 1/2022 of the EU-Republic of Moldova Customs Sub-Committee](#) of 3 October 2022 concerning the mutual recognition of the authorised economic operator programme of the Republic of Moldova and the authorised economic operator programme of the European Union (2022/2089)

Annex IV – Survey of authorised economic operators

The audit included a survey, based on a targeted and translated questionnaire to all AEOs in the EU. The questionnaire was designed to collect information on their experiences and opinions otherwise not directly obtainable and needed for the audit. This exercise allowed us to conclude on potential challenges, opportunities and risks concerning the EU AEO programme.

The ECA survey ran from 15 September to 15 October 2022. We intended to send the survey directly to all AEOs registered in all EU Member States, but due to the unavailability of AEOs' direct contact details and data protection rules of some of the AEO's jurisdictions, we asked the Member States customs authorities to facilitate the distribution of the survey.

The customs authorities were entrusted to send the questionnaire by e-mail to all AEOs registered in their Member State, but not all of them did so. Some chose to advertise the survey on their website, which may have reduced the potential response rate of the survey.

We received 3,259 replies from all Member States out of a potential population of over 18,000 AEOs which we considered sufficient to build an over satisfactory evidence.

Annex V – Application and authorisation process

Determination of the competent Member State for submitting an AEO application³²

The Member State to which the AEO application should be submitted is determined in the third sub-paragraph of Article 22 (1) UCC. This states that the competent customs authority shall be that of the place where the applicant's main accounts for customs purposes are held or accessible, and where at least part of the activities to be covered by the decision are carried out. The general principle is that the application should be submitted to the Member State, which has the best knowledge of the applicant's customs related activities.

Nevertheless, considering the modern trends in companies' organisational structures and business flows, as well as of the ongoing trend on outsourcing certain activities, the correct decision is not always "at hand". Whenever it is not possible to determine clearly the Member State, which should act as issuing customs authority based on the above mentioned general principle, Articles 12 or 27UCC DA apply.

Article 12 UCC DA establishes that the competent customs authority shall be that of the place where the applicant's record and documentation enabling the customs authority to take a decision (main accounts for customs purposes) are held or accessible (e.g. the place where the administrative headquarter of the applicant company is located).

Article 27 UCC DA, specifically for AEO, states that where the competent customs authority cannot be determined in accordance with the third subparagraph of Article 22 (1) UCC or Article 12 UCC DA, the application shall be submitted to the customs authorities of the Member State where the applicant has a permanent business establishment and where the information about its general logistical management activities in the Union is kept or is accessible as indicated in the application.

Receipt and acceptance of the application

The general process to be followed when an application for an AEO status has been submitted is described in Articles 22 and 38 UCC, Articles 11 to 13 and 26 to 28 UCC DA and Articles 10 and 12 UCC IA. Upon receipt of the application form, customs

³² AEO Guidelines, part 3 - Application and authorisation process, p. 65, revision 6, 2016.

authorities examine it and decide upon its acceptance or non-acceptance. The following common general considerations have to be always taken into account:

- the application should be lodged according to the requirements of Article 22 (1) UCC, and Article 11 UCC DA;
- a Self-Assessment Questionnaire (SAQ) shall be submitted with the application as provided by Article 26 (1) UCC DA;
- customs authorities have to have all of the necessary information to be in a position to do the quick check of the application submitted against the conditions for acceptance. This can be sought by either accessing the relevant databases or asking the applicant to provide it together with the application;
- whenever appropriate, customs should also use other available sources of information e.g. common EU databases, contacts with other authorities, information from the company's web page etc.;
- in case additional information is required, customs authorities have to ask for it from the applicant as soon as possible but not later than 30 calendar days from the date of receipt of the application according to Article 22(2) UCC;
- where the customs authority establish that the application does not contain all the information required, it shall ask the applicant to provide the relevant information within reasonable time limit which shall not exceed 30 days according to Article 12 (2) 1st subparagraph UCC IA;
- customs authorities must always inform the applicant about the acceptance of the application and the date of acceptance; they should inform him also in case of non-acceptance of the application, stating the reasons for non-acceptance (second subparagraph of Article 22 (2) UCC).

Risk analysis and Auditing process

It is to be noted that the term customs audit covers different types of customs controls or assessments performed by customs to ensure that economic operators comply with Union and national legislation and requirements in customs related areas. Audit covers pre-audit, post clearance audit and re-assessment.

Pre-audit is performed by customs before the granting of any kind of customs authorisation/certification. In the context of AEO the pre-audit is the audit that follows the AEO application and serves to verify if the applicant fulfils the criteria laid down in Article 39 UCC. As a result of the (pre-) audit the auditor must be able to:

- make a judgement about the fulfilment of the conditions for the granting of the AEO status;
- identify the remaining risks and propose further actions to be undertaken; and
- identify points in the operator's procedures which need a closer monitoring and advise the applicant to improve or strengthen the relevant procedures and controls.

Once the status is granted, one has to differentiate between monitoring and re-assessment. Monitoring is done continuously both by the economic operator (AEO) and by customs authorities by supervising daily activities of the AEO including visits to his or her premises. It aims at the early detection of any signal of noncompliance and shall lead to prompt actions in case difficulties or non-compliance are detected. Re-assessment implies that something has already been detected and action has to be taken in order to verify if the economic operator is still compliant with the AEO criteria. In this context it is clear that monitoring can trigger re-assessment.

Decision about granting of the status

The decision of the customs authorities on if the AEO status can be granted or not is based on the information collected and analysed through the different stages of the authorisation process, from receipt of the application submitted to when the audit process has been fully completed.

To enable customs authorities to take the decision, the following factors should 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. This information may need to be rechecked and, in some cases, updated, in order to take account of possible changes, which may have occurred in the period from the date of receipt and acceptance of the application to the end of the authorisation process and issuing the final decision;
- all relevant conclusions drawn by the auditors during the audit process. Customs authorities should prepare and implement the most efficient methods of internal communication of the audit results, which have emanated from the audit team(s) to the other competent customs authorities involved in taking the decision. A full documentation of the checks done through and audit report or other appropriate document/way is recommended as the most appropriate mechanism to do so;

- the results of any other evaluation of the organisation and procedures of the applicant that took place for other control reasons.

At the end of the process and before taking the final decision, the issuing customs authority will inform the applicant in particular where those conclusions are likely to result in a negative decision. In that case, opportunity shall be given to the applicant to express his or her point of view, respond to the envisaged decision and provide supplementary information with the intention of achieving a positive decision (Article 22(6) UCC).

To avoid that the right to be heard results in prolonged delays, Articles 8 (1) and 13 (2) UCC DA define a period of 30 days. The applicant should be advised that failure to respond within that period will be deemed to be a waiver of the right to be heard. In circumstances where a person indicates that they wish to waive the right to be heard, this fact should be recorded and retained as evidence that the applicant was provided with the possibility to respond.

The applicant will be informed whether customs authorities decide or not to alter the original decision based on the supplementary information provided.

Annex VI – AEO - Management Processes

Monitoring³³

Monitoring by the economic operator and obligation to notify of any changes.

Regular monitoring is the primary responsibility of the economic operator. It should form part of its internal control systems. The economic operator should be able to demonstrate how the monitoring is performed and show the results. The economic operator should review its processes, risks and systems to reflect any significant changes in its operations. Customs authorities should be informed about these changes.

There is also a legal requirement laid down in Article 23 (2) UCC that the holder of the AEO authorisation shall inform the customs authorities without delay of any factor arising after the decision was taken, which may influence its continuation or content.

The AEO shall inform the issuing customs authority of any changes related to any other relevant approval, authorisation or certification granted by other government authorities that may have an impact on the AEO authorisation (e.g. withdrawal of a regulated agent or known consignor status). The AEO shall ensure it holds the original documentation, including documented findings and reports from revalidations as this may be requested by customs authorities.

Monitoring by the customs authorities

Monitoring is done on a continuous basis by the customs authorities, including through monitoring of the day-to-day activities of the AEO and visits to the premises. It aims at the early detection of any signal of non-compliance and shall lead to prompt action in case difficulties or non-compliance are detected.

According to Article 23 (5) and 38 (1) UCC, the AEO status is subject to monitoring. Furthermore, taking into consideration that the period of validity of the AEO authorisation is not limited it is of great importance that the criteria and conditions of the AEO status are evaluated on a regular basis.

At the same time, monitoring will also lead to a better understanding of the AEO's business, which could even lead the customs authorities to recommend to the AEO a better, more efficient way of using the customs procedures or the customs rules in general.

³³ AEO Guidelines, part 5 - Management of the authorisations, p. 99, revision 6, 2016.

Thus, it is significant for the competent customs authority to ensure that a system for monitoring the compliance with the conditions and criteria of the authorisation is developed in conjunction with the AEO. Any control measures undertaken by the customs authorities should be recorded.

The monitoring activities to be planned should be based on risk analysis performed at the various stages (examinations before granting the status, management of the authorisation granted, etc.). There are a number of factors, which can influence them:

- the type of authorisation held – while monitoring of some criteria, such as proven solvency, can be desk-based, monitoring of the security and safety criterion for AEOS should usually require an on-site visit;
- the stability of the economic operator – whether there are frequent changes to locations, markets, key personnel, systems etc.;
- the size of the business and number of locations;
- the role of the AEO within the supply chain – whether the AEO has physical access to goods or acts as a customs agent;
- the strength of internal controls over the business processes and whether processes are outsourced;
- whether any follow up actions or minor improvements to processes or procedures have been recommended during the AEO audit.

Consequently, the frequency and nature of monitoring activities varies depending on the AEO concerned and its related risks. However, considering the specific nature of the security and safety criterion, an on-site visit for AEOS is recommended at least once every 3 years.

Special attention shall be also given to the cases where the economic operator being granted the status of an AEO has been established for less than three years. In the latter cases customs authorities are required to carry out close monitoring during the first year after granting the AEO status.

It is also important to be taken into account that the development of the monitoring plan and in particular any visits in the premises of the AEO have to be done in the context of its overall customs activities. Customs authorities should co-ordinate and take into account any other auditing/monitoring activities envisaged for that particular economic operator. Duplication of examinations has to be avoided as much as possible.

Re-assessment

Article 15 (1) UCC DA requires that customs authorities re-assess whether an AEO authorisation holder continues to comply with the conditions and criteria of AEO where there are:

- *"where there are changes to the relevant Union legislation affecting the decision;*
- *where necessary as a result of the monitoring carried out;*
- *where necessary due to information provided by the holder of the decision in accordance with Article 23 (2) of the Code or by other authorities."*

Depending on the reason for the re-assessment, it can result in a full or partial re-examination of concrete criteria or conditions.

Re-assessment following changes to the EU legislation

A re-assessment shall be required if there are changes in the Union customs legislation specific to and having impact on the conditions and criteria related to the AEO status. An example will be changes to the AEO criteria following modification of the Union Customs Code and its implementing provisions such as the new criterion on professional practical standards of competence or professional qualifications. Usually the legislation requires the reassessment to be carried out within a specified transitional period.

Re-assessment following the result of a monitoring carried out or due to information provided by the holder of the decision or by other authorities

The starting point for taking a decision for re-assessment 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 the monitoring that the customs authorities carried out; result of other checks carried out by customs or other government authorities; other information received from other customs or other government authorities; major changes in the activity of the AEO etc.

It is up to the issuing customs authority to decide in each particular case whether re-assessment of all the conditions and criteria is necessary or if only the relevant condition or criteria for which there is indication for non-compliance are to be reassessed. It is always possible to discover even during the re-assessment of one of the criteria that the others should be also checked again.

Suspension

Where a decision relating to a person who is both an AEOS and an AEOC is suspended due to non-fulfilment of the conditions laid down in Article 39(e) UCC (appropriate security and safety standards), his or her AEOS authorisation shall be suspended, but his or her AEOC authorisation shall remain valid.

Suspension can be a potential consequence of an examination done during the monitoring or re-assessment where serious deficiencies have been discovered which means that the holder of the authorisation, from a risk perspective, cannot have the status under the present circumstances. This indication of 'non-compliance' may arise also as a result of information received from other Member States or other government authorities, e.g. civil aviation authorities.

Prior to the decision to suspend, the competent customs authority must notify the AEO of the findings, the assessments made and the fact that according to the evaluation they may result in a suspension of the authorisation if the situation is not corrected. The AEO is given the right to be heard. The timescale for comments and corrections is 30 calendar days from the date of communication (Article 8 (1) UCC DA).

Revocation

The provisions on revocation of the authorisation and cases, which could lead to the revocation are laid down in Articles 28 UCC and 34 UCC IA.

According to Article 28 (1) UCC a favourable decision shall be revoked where

- (a) one or more of the conditions for taking the decision were or are no longer fulfilled; or
- (b) upon application by the holder of the decision.

If a revocation is decided by the competent customs authority, a new application for an AEO authorisation will not be accepted within three years from the date of revocation.

The revocation of an AEO authorisation shall not affect any favourable decision which has been taken with regard to the same person unless AEO status was a condition for that favourable decision, or that decision was based on the AEO criterion which is no longer met (Article 34 (1) UCC IA).

Abbreviations

AEO: Authorised economic operator

AEOC: AEO authorisation – customs simplifications

AEOS: AEO authorisation – security and safety

CUP: Customs Union Performance

DG TAXUD: Directorate-General for Taxation and Customs Union

EO: economic operator

MRA: mutual recognition agreement

UCC DA: Union Customs Code Delegated Act

UCC IA: Union Customs Code Implementing Act

UCC: Union Customs Code

WCO: World Customs Organization

Glossary

Authorised economic operator: A person or company deemed reliable, and therefore entitled to enjoy benefits in the context of customs operations.

Carrier: An economic operator who actually transports the goods in or outside the customs territory of the Union or is responsible for the carriage of the goods.

Customs agent: An economic operator who is acting on behalf of a person involved in customs-related business activities.

Customs control: Procedure to check compliance with EU customs rules and other relevant legislation.

Customs declaration: An official document that gives details of goods being presented for import, export or other another customs procedure.

Customs union: The result of an agreement among a group of countries to trade freely with one another while charging a common tariff on imports from other countries.

Exporter: The person or business on whose behalf the export declaration is made.

Freight forwarder: An economic operator who organises the transportation of goods in international trade on behalf of an exporter, an importer or another person.

Importer: The person or business for whom an import declaration is made.

Manufacturer: An economic operator who in the course of business produces goods for export.

Mutual recognition agreement: Agreements between the EU and third countries, which provide a framework to recognise the AEO authorisation issued under the other programme and provide reciprocal benefits to AEOs of the other programme.

Supply chain: The system of organisations, people, activities, information and resources involved in producing a product or service and supplying it to the customer.

Warehouse keeper: An economic operator who is authorised to operate a customs warehouse or a temporary storage facility.

European Commission's replies

<https://www.eca.europa.eu/en/publications/sr-2023-13>

Timeline

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Audit team

The ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was carried out by Audit Chamber IV Regulation of markets and competitive economy, headed by ECA Member Mihails Kozlovs. The audit was led by ECA Member Ildikó Gáll-Pelcz, supported by Claudia Kinga Bara, Head of Private Office and Zsolt Varga, Private Office Attaché; John Sweeney, Principal Manager; Dan Danielescu, Head of Task; Benny Fransen, Co-Head of Task; Doris Boehler, Esther Torrente Heras, Auditors. Linguistic support was provided by Richard Moore.



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The EU has a programme in place to simplify customs procedures for reliable traders, to facilitate legitimate trade between the EU and its global partners and to ensure international supply chain security – the Authorised Economic Operators programme. We examined whether the Commission provided a sound regulatory and monitoring framework and whether the Member States implemented the programme properly. Our overall conclusion is that the AEO programme facilitates legitimate trade, enhances supply-chain security and the protection of the EU financial interest, but the management, regulatory framework and the implementation, including AEO benefits, require changes and improvements. We recommend the Commission to improve the regulatory framework, to better measure the programme’s performance and to enhance the monitoring of its implementation.

ECA special report pursuant to Article 287(4), second subparagraph, TFEU.



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