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**Subject: Re-assessment of the AEO authorisations in the context of the UCC
and its Implementing Provisions**

Annex: Information document

This document contains possible questions and answers relating to the re-assessment of the existing AEO certificates and aims to facilitate and clarify some main topics.

The document shall be read in conjunction with the UCC and related DA and IA and the updated AEO guidelines.

1) What happens to the existing AEO certificates after the 1st of May 2016?

The existing AEO certificates that are valid on 1 May 2016 remain valid until they are re-assessed.

2) Is it necessary to submit an application to the competent customs authority to re-assess the existing certificate?

No. The holder of an AEO certificate will be contacted by the competent customs authority. All AEO certificates issued before 1 May 2016 shall be reassessed before 1 May 2019. In any case AEOs can contact the AEO national contact points if they wish to have more information and clarification.

3) If the decision following the reassessment will be positive the existing AEO certificate will be revoked and a new authorisation will be issued?

No. The AEO applications and certificates/authorisations are managed by the EOS/AEO electronic system¹ since 2008. The positive decision following a re-assessment replaces the existing AEO certificate as required by Articles 250 and 251 UCC DA. Thanks to the EOS/AEO system there is no need to revoke the existing AEO certificate and issue a new one avoiding administrative burdens for both customs and traders and simplifying the process. This means that in case of a positive decision following the re-assessment of an existing current AEO certificate, it will be considered as an AEO authorisation granted under the UCC.

4) In case of a positive decision following the re-assessment will the AEO "authorisation" have a new number different from that of the previous AEO certificate?

The positive decision following the re-assessment replaces the existing AEO. However the number of the authorisation will continue to be the same of the previous existing certificate; the only difference is that under the UCC it is referred to an "authorisation" instead of a "certificate".

It has to be noted that from a legal point of view under the UCC there are two types of authorisations:

AEOC for customs simplifications [Article 38 (2) (a)] UCC, and

AEOS for security and safety [Article 38 (2) (b)] UCC.

Following Article 33 UCC IA, where an applicant requests and is entitled to be granted both AEOC and AEOS authorisation, the customs authority competent to take the decision shall

¹ EU Economic Operator System

issue one **combined** authorisation. Under a technical point of view the combination of the two AEOC and AEOS authorisation will continue to be managed under the EOS/AEO system as an AEOF authorisation and therefore the AEOF number will continue to be valid also after the re-assessment of the existing AEOF certificate and will be referred to an AEOF authorisation as combination of an AEOC and AEOS authorisation.

5) Will there be any changes to the existing MRA codes?

No. As the number of the re-assessed authorisation will remain the same of the existing AEO certificates, the MRA codes already attributed will remain the same without any changes.

6) What happens if there is a negative decision following the re-assessment.

The existing AEO certificate will be revoked.

7) What happens if following the re-assessment the criteria are only partially met?

In case of partial compliance of the criteria the following situations can apply:

- If an holder of an AEOF certificate does not fulfil the condition laid down in Article 39 (d) of the UCC, the AEOF certificate is suspended or revoked and a new AEOS authorisation is issued without request by the AEO
- If an holder of an AEOF certificate does not fulfil the condition laid down in Article 39 (e) of the UCC, the AEOF certificate is suspended or revoked and a new AEOC authorisation is issued without request by the AEO

8) What happens if the holder of an existing AEO certificate is also an holder of other customs authorisation granted by the same customs office?

As far as possible, depending also on the specific situation the customs authority should coordinate the activities relating to the re-assessment of the AEO certificates with those authorisations for which one or more AEO criteria are requested to comply with, in order to avoid duplication of work and examinations. When this coordination is applicable the Customs authorities inform the holder of these authorisations. In any case the final documentations and communications to the traders shall be separate as they are related to different authorisations.

9) What are the criteria and conditions to be re-assessed?

As regards the previously existing criteria and conditions the customs authorities must take into account earlier monitoring and/or re-assessment activities performed under Article 14q (4) and (5) CCIP and the period in which they have been performed.

The new criterion and conditions introduced under the UCC will be examined as "new".

10) What are the new conditions introduced for the "compliance" criterion of Article 39(a) UCC and Article 24 UCC IA?

The new "compliance" criterion extends the previous requirement of compliance with customs legislation to compliance with taxation rules and the proof of no serious criminal offences relating to the economic activity of the AEO.

In particular:

- "Customs legislation": this condition is not new but can be verified at the date of the re-assessment as well (see question 6).
- "Taxation rules": this new condition has to be understood in a broader perspective. It extends beyond taxes in conjunction with the import and export of goods (e.g. VAT, company taxation, excise duties etc.). Nevertheless it is limited to taxation rules related to the economic activity of the AEO;
- "Serious criminal offences relating to the economic activity of the applicant" : this is not completely new because in the previous legislation this was an element leading to the non-acceptance of the application [see art. 14f (b) CCIP]. Therefore, during the re-assessment of the existing certificates, this element must be updated at the date of the re-assessment.

11) What are the new conditions introduced for the " Satisfactory system of managing commercial and transport records criterion of Article 39(b) UCC and Article 25 UCC IA?

Article 25 (1) IA introduces two new conditions to comply with the criterion:

- Article 25(1) (b) UCC IA requires that "records kept by the applicant for customs purposes are integrated in the accounting system of the applicant or allow cross checks of information with the accounting system to be made".
- Article 25(1) (k) UCC IA, introduces, where applicable, the condition related to a satisfactory procedure in place for the handling of import and export licences connected to prohibitions and restrictions, including measures to distinguish goods subject to the prohibitions or restrictions from other goods and measures to ensure compliance with those prohibitions and restrictions.

This condition was previously included under the criterion on safety and security and as such limited to the AEOS (including AEOF) status to prevent misuse and unlawful delivery of security and safety sensitive goods. Under the new legislation this condition must be fulfilled, where applicable, by all AEOs and therefore in case of re-assessment of AEOC certificates, it is to be verified as a "new" condition.

For more detailed information see Part 2, Section II, of the updated AEO Guidelines

12) What are the new conditions introduced for the " Financial solvency" criterion of Article 39(c) UCC and Article 26 UCC IA?

Article 26 UCC IA introduces three specific conditions to comply with the criterion. In particular:

- Article 26(1)(a) which concerns the absence of bankruptcy proceedings (previously was a condition for the non-acceptance of the application)
- Article 26(1)(b) concerns the fulfilment, over the last three years (from the date of the re-assessment), of the financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of the goods (previously it was an element mentioned in the AEO guidelines)
- Article 26(1)(c) , concerns a sufficient financial standing to meet the obligations and fulfil commitments having regard to the type and volume of the business activity,

including having no negative net assets, unless when they can be covered (previously it was an element mentioned in the AEO guidelines).

Even if these conditions are not completely new their legal basis has been changed. Under the UCC IA, indeed, these appear as specific conditions requested in order to fulfil the criterion and therefore the lack of one or more of these conditions can lead to a negative decision by the customs authority.

For more detailed information see Part 2, Section III, of the updated AEO Guidelines

13) What is the new criterion relating to "Practical standards and professional qualifications" introduced by Article 39(d) UCC and Article 27 UCC IA?

In order to re-assess the existing AEOC and AEOC/AEOS certificates, the AEO or the person in charge of the AEO's customs matters have to comply with the new additional criterion provided by Article 39 (d) UCC and Article 27 UCC IA.

The person in charge of the AEO's customs matters is intended to be:

- The AEO's employee in charge of customs matters:
- A person outside the AEO, in case managing/handling of the customs matter is outsourced

The criterion must be considered to be fulfilled if one of the following conditions is met in relation to the economic activity carried out by the holder of an AEOC or AEOC/AEOS certificate:

a) Practical standards of competence

- a proven practical experience of a minimum of three years in customs matters

For information on how to comply with this condition please refer to section 2.IV.2.1 of the updated AEO guidelines

- A quality standard concerning customs matters adopted by a European Standardization body

The competent European Standardisation Body has not yet developed standards applicable to "customs matters", therefore this condition cannot, at the moment, be applied.

b) Professional qualifications

The person in charge of the AEO's customs matters (employee or contracted person) has successfully completed training covering customs legislation consistent with and relevant to the extent of the AEOC's related activities provided by any of the following:

- (i) a customs authority of a Member State;
- (ii) an educational establishment recognised, for the purposes of providing such qualification, by the customs authorities or a body of a Member State responsible for professional training;
- (iii) a professional or trade association recognised by the customs authorities of a Member State or accredited in the Union, for the purposes of providing such qualification

It is also possible that a person inside the company who has the legal power to physically represent the company has successfully passed a training in customs matters (e.g., a person in charge of an AEO company providing brokerage services, such as the President or a member of the board, has successfully passed an exam for customs agent). In this case the AEO can fulfil the criterion with the condition of professional qualification through this person.

For further detailed information, please see section 2.IV.3 of the updated AEO Guidelines.

14) What are the new conditions relating to "Security and safety standards" introduced by Article 39(e) UCC and Article 28 UCC IA?

Article 28 (1) IA introduces two new conditions to comply with the criterion:

- Article 28 (1) (d) UCC IA introduces a new element in the existing condition relating to measures "to ensure through implementation of appropriate contractual arrangements or other appropriate measures in accordance with the applicant's business model, that those business partners ensure the security of their part of the international supply chain".
- Article 28 (1) (k) UCC IA introduces a new condition for the security and safety criterion. In particular the AEO must appoint a contact person competent for safety and security related questions. This person should be the contact point for any issues originating from inside the company and also those originating from the ICA relating to safety and security. Whether this function is outsourced or not, it is to be ensured by the AEO that this person is fully aware of all specific security related issues of the company and is authorised to receive and communicate security sensitive materials/information.

For further detailed information see Part 2, Section V, of the updated AEO Guidelines

15) Whom to contact for further information at national level?

Further information can be asked to the national AEO contact points:

http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_security/aeo/contact_tools_en.htm