



# REPLIES OF THE EUROPEAN COMMISSION

## TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

The Authorised Economic Operators

Solid customs programme with untapped potential and  
uneven implementation

# Contents

|  |   |
|--|---|
| I. THE COMMISSION REPLIES IN BRIEF .....                                     | 2 |
| II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA.....                  | 2 |
| 1. Regulatory framework .....  | 2 |
| 2. AEO benefits.....   | 3 |
| 3. The management of the AEO programme by Member States .....                | 3 |
| III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA.....               | 4 |
| Recommendation 1: Improve the regulatory framework.....                      | 4 |
| Recommendation 2: Improve the current performance measurement framework..... | 4 |
| Recommendation 3: Improve the management of the AEO programme.....           | 4 |

This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 259 of the [Financial Regulation](#) and to be published together with the Special Report.

# I. THE COMMISSION REPLIES IN BRIEF

The Commission welcomes this European Court of Auditors' special report on the AEO programme.

Operational since 2008, the Authorised Economic Operator (AEO) programme establishes customs-to-business partnership to strengthen the security of supply chains and to facilitate legitimate global trade. It involves specific traders – 'AEOs' – who voluntarily meet strict criteria in exchange for a range of benefits.

Based on internationally recognised standards established by the World Customs Organisation (WCO), the European Union (EU) established its Authorised Economic Operators (AEO) programme through the so-called Customs Code Security amendments in 2005. The legal framework of the EU AEO programme is now contained in the Union Customs Code (UCC) and its implementing and delegated acts. The AEO Guidelines have been developed to ensure the common understanding for both customs authorities and economic operators to provide a tool to facilitate the correct and harmonious application of the legal provisions. Electronic systems relating to the AEO status are in place to support the AEO processes, both for the authorities and AEO companies. In order to further strengthen international supply chains with third country partners, the EU has concluded AEO mutual recognition with several third countries.

The Commission has been working closely ever since 2008 with customs administrations of Member States to ensure the AEO provisions are applied and implemented in a harmonious way across Member States. The Commission intends to address the lessons learnt, especially from the previous monitoring and fact-finding exercises.

## II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

### 1. Regulatory framework

Having assessed the completeness of the legislation underlying the AEO programme, ECA concludes that the regulatory framework for the EU AEO programme is generally robust, but it also suggests that more adequate provisions might be needed as regards serious and repeated infringements, consultations between the national customs authorities, the benefit of priority treatment of AEO companies as well as the performance measurement of the AEO programme<sup>1</sup>.

The Commission intends to address the concerns raised by ECA as regards the absence of mandatory reply of the consulted customs authorities when consulted by their counterparts in other Member States about the fulfillment of the AEO criteria in the context of the customs reform<sup>2</sup>. The Commission intends to elaborate further guidance to the national customs authorities on priority treatment of AEO status holders.

Member States report to the Commission twice per year, on their activities relating to the AEO programme implementation. Regarding recommendations made during fact-finding visits, the

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<sup>1</sup> See ECA observations in paragraphs 22 - 33

<sup>2</sup> See ECA observations in paragraphs 27-29.

Commission is in the process of evaluating how Member States are following up on these recommendations, for which timeframes were set.

The Commission also intends to develop, together with the Member States, improvements to the existing measurement framework. The Commission will also consider additional necessary measures to ensure that the data collection and reporting is improved.

## **2. AEO benefits**

ECA refers to the legislative framework, stipulating the entitlement of AEO benefits to AEOs from the EU, in general<sup>3</sup>. However, in some cases, the legislation stipulates not applying the benefits, where the goods have been identified by customs authorities to present financial, security and safety or other non-fiscal risk and control measures are required. This includes the cases where the advance control notification by the customs authorities to the AEOs is not applied when it may jeopardize the controls.

During the recent AEO fact-finding visits conducted by the Commission with Member States' AEO experts to all Member States (2019-2022), the granting of AEO benefits and cooperation between AEO and risk management departments was systematically reviewed. Although in some Member States the benefits were found to be granted as foreseen by the legislative framework, in others the situation was less clear, and more efforts by customs authorities to grant the benefits as well as more efforts from the Commission to monitor customs authorities to ensure that the benefits are granted are envisaged to address the situation.

The Commission will continue its efforts to monitor closely the granting of AEO benefits.

## **3. The management of the AEO programme by Member States**

The ECA acknowledges that the visited Member States have sound systems for the granting of AEO authorisations. ECA highlights several good practices<sup>4</sup> and praises the high satisfaction rate of AEOs concerning the authorisation process. A forthcoming AEO study underlines that a large majority of EU AEOs consider that the benefits of the programme outweigh its costs.

The ECA draws attention to the use of the Economic Operator System (EOS) and notes that although the legislation requires Member States to record all re-assessments, suspensions and revocations in this system, this is not done consistently. As a result, accurate data cannot be retrieved from EOS.<sup>5</sup> The Commission is well aware of the situation. As of 1 October 2019, economic operators are required to submit AEO applications electronically, either through the EU customs trader portal (eAEO) (or through national trader portals in FR, DE and ES). This allows the Commission to have a better view of the communication between the authorities and economic operators. The Commission is strengthening the awareness raising towards Member States through various channels (e. g. AEO Network, monthly EOS webinars; fact finding visits). Moreover, since 2021 the Commission has been performing quality control of the data in EOS and informs Member States of the corrective actions they need to do.

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<sup>3</sup> See ECA observations in paragraphs 39 - 47

<sup>4</sup> See ECA observations in paragraphs 70 - 72

<sup>5</sup> See ECA observation in paragraph 82.

# III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

## **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**

The Commission accepts recommendation 1a, 1b and 1c.

The Commission intends to address the issues referred to in recommendation 1b, in the context of the customs reform. The Commission is also ready to address the issues related to recommendation 1a and 1c, notably in the guidance.

The Commission cannot however take specific commitments at this stage on the content of future legislation.

## **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”**

The Commission accepts recommendation 2.

The Commission intends to develop, together with the Member States, improvements to the existing measurement framework. The Commission is ready to address the concerns raised by ECA referred to in recommendation 2, with regard to data collection and reporting. The Commission cannot, however, take specific commitments, at this stage, as to the content of future legislation.

## **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**

The Commission understands that the introductory paragraph of this recommendation expresses an obligation of means on the part of the Commission but cannot ensure that Member States take actions and obtain results which are in their remit. With this understanding, the Commission accepts recommendations 3a, b and c.

The Commission will continue addressing the monitoring of the correct application of the AEO programme.

However, the actions expressed in (a), (b) and (c) (i.e. to grant the entitled benefits, to coordinate monitoring actions for AEO traders with permanent business establishments in other Member States and that economic operator system for registering all AEO authorisation management actions are consistently used) are within the competences of Member States.