

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 Union Customs Code

TITLE I

GENERAL PROVISIONS

CHAPTER 2

Rights and obligations of persons with regard to the customs legislation

Section 3

Authorised economic operator

Article 24

Compliance(Article 39(a) of the Code)

1 Where the applicant is a natural person, the criterion laid down in Article 39(a) of the Code shall be considered to be fulfilled if, over the last 3 years, the applicant and where applicable the employee in charge of the applicant's customs matters have not committed any serious infringement or repeated infringements of customs legislation and taxation rules and have had no record of serious criminal offences relating to their economic activity.

Where the applicant is not a natural person, the criterion laid down in Article 39(a) of the Code shall be considered to be fulfilled where, over the last 3 years, none of the following persons has committed a serious infringement or repeated infringements of customs legislation and taxation rules or has had a record of serious criminal offences relating to his economic activity:

- a the applicant;
- b the person in charge of the applicant or exercising control over its management;
- c the employee in charge of the applicant's customs matters.

2 However, the criterion referred to in Article 39(a) of the Code may be considered to be fulfilled where the customs authority competent to take the decision [^{F1}(namely, in this Regulation, the Commissioners for Her Majesty's Revenue and Customs)] considers an infringement to be of minor importance, in relation to the number or size of the related operations, and the customs authority has no doubt as to the good faith of the applicant.

3 Where the person referred to in paragraph 1(b) is established or has his residence in a third country, the customs authority competent to take the decision shall assess the fulfilment of the criterion referred to in Article 39(a) of the Code on the basis of records and information that are available to it.

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4 Where the applicant has been established for less than 3 years, the customs authority competent to take the decision shall assess the fulfilment of the criterion referred to in Article 39(a) of the Code on the basis of the records and information that are available to it.

Textual Amendments

- F1** Words in Art. 24(2) inserted (31.12.2020) by The Customs Safety and Security Procedures (EU Exit) Regulations 2019 (S.I. 2019/715), regs. 1(2), **5(3)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Article 25

Satisfactory system of managing commercial and transport records(Article 39(b) of the Code)

1 The criterion laid down in Article 39(b) of the Code shall be considered to be fulfilled if the following conditions are met:

- a the applicant maintains an accounting system which is consistent with the generally accepted accounting principles applied in the [F²United Kingdom], allows audit-based customs control and maintains a historical record of data that provides an audit trail from the moment the data enters the file;
- b 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;
- c the applicant allows the customs authority physical access to its accounting systems and, where applicable, to its commercial and transport records;
- d the applicant allows the customs authority electronic access to its accounting systems and, where applicable, to its commercial and transport records where those systems or records are kept electronically;
- e the applicant has a logistical system which identifies goods as Union or non-Union goods and indicates, where appropriate, their location;
- f the applicant has an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and has internal controls capable of preventing, detecting and correcting errors and of preventing and detecting illegal or irregular transactions;
- g where applicable, the applicant has satisfactory procedures in place for the handling of licences and authorisations granted in accordance with commercial policy measures or relating to trade in agricultural products;
- h the applicant has satisfactory procedures in place for the archiving of its records and information and for protection against the loss of information;
- i the applicant ensures that relevant employees are instructed to inform the customs authorities whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;
- j the applicant has appropriate security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation;
- k where applicable, the applicant has satisfactory procedures 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.

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2 Where the applicant applies only for an authorisation as an economic operator authorised for security and safety as referred to in Article 38(2)(b) of the Code (AEOS), [F³as distinct from pursuant to provision made by or under the Taxation (Cross-border Trade) Act 2018,] the requirement laid down in paragraph 1(e) shall not apply.

Textual Amendments

- F2** Words in Art. 25(1)(a) substituted (31.12.2020) by [The Customs Safety and Security Procedures \(EU Exit\) Regulations 2019 \(S.I. 2019/715\)](#), regs. 1(2), **5(3)(c)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F3** Words in Art. 25(2) inserted (31.12.2020) by [The Customs Safety and Security Procedures \(EU Exit\) Regulations 2019 \(S.I. 2019/715\)](#), regs. 1(2), **5(3)(d)**; 2020 c. 1, **Sch. 5 para. 1(1)**

Article 26

Financial solvency(Article 39(c) of the Code)

1 The criterion laid down in Article 39(c) of the Code shall be considered to be fulfilled where the applicant complies with the following:

- a the applicant is not subject to bankruptcy proceedings;
- b during the last 3 years preceding the submission of the application, the applicant has fulfilled his financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods;
- c the applicant demonstrates on the basis of the records and information available for the last 3 years preceding the submission of the application that he has sufficient financial standing to meet his obligations and fulfil his commitments having regard to the type and volume of the business activity, including having no negative net assets, unless where they can be covered.

2 If the applicant has been established for less than 3 years, his financial solvency as referred to in Article 39(c) of the Code shall be checked on the basis of records and information that are available.

Article 27

Practical standards of competence or professional qualifications(Article 39(d) of the Code)

1 The criterion laid down in Article 39(d) of the Code shall be considered to be fulfilled if any of the following conditions are met:

- a the applicant or the person in charge of the applicant's customs matters complies with one of the following practical standards of competence:
 - (i) a proven practical experience of a minimum of 3 years in customs matters;
 - (ii) a quality standard concerning customs matters adopted by a European Standardisation body;
- b the applicant or the person in charge of the applicant's customs matters has successfully completed training covering customs legislation consistent with and relevant to the extent of his involvement in customs related activities, provided by any of the following:

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- (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.

2 Where the person in charge of the applicant's customs matters is a contracted person, the criterion laid down in Article 39(d) of the Code shall be considered to be fulfilled if the contracted person is an economic operator authorised for customs simplifications as referred to in Article 38(2)(a) of the Code (AEOC).

Article 28

Security and safety standards(Article 39(e) of the Code)

1 The criterion laid down in Article 39(e) of the Code shall be considered to be fulfilled if the following conditions are met:

- a buildings to be used in connection with the operations relating to the AEOC authorisation provide protection against unlawful intrusion and are constructed of materials which resist unlawful entry;
- b appropriate measures are in place to prevent unauthorised access to offices, shipping areas, loading docks, cargo areas and other relevant places;
- c measures for the handling of goods have been taken which include protection against the unauthorised introduction or exchange, the mishandling of goods and against tampering with cargo units;
- d the applicant has taken measures allowing to clearly identify his business partners and 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;
- e the applicant conducts in so far as national law permits, security screening on prospective employees working in security sensitive positions and carries out background checks of current employees in such positions periodically and where warranted by circumstances;
- f the applicant has appropriate security procedures in place for any external service providers contracted;
- g the applicant ensures that its staff having responsibilities relevant for security issues regularly participate in programmes to raise their awareness of those security issues;
- h the applicant has appointed a contact person competent for safety and security related questions.

2 Where the applicant is a holder of a security and safety certificate issued on the basis of an international convention or of an International Standard of the International Organisation for Standardisation, or of a European Standard of a European standardisation body, these certificates shall be taken into account when checking compliance with the criteria laid down in Article 39(e) of the Code.

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The criteria shall be deemed to be met to the extent that it is established that the criteria for issuing that certificate are identical or equivalent to those laid down in Article 39(e) of the Code.

The criteria shall be deemed to be met where the applicant is the holder of a security and safety certificate issued by a third country with which the Union has concluded an agreement which provides for the recognition of that certificate.

3 Where the applicant is a regulated agent or a known consignor as defined in Article 3 of Regulation (EC) No 300/2008 of the European Parliament and of the Council⁽¹⁾ and fulfils the requirements laid down in Commission Regulation (EU) No 185/2010⁽²⁾, the criteria laid down in paragraph 1 shall be deemed to be met in relation to the sites and the operations for which the applicant obtained the status of regulated agent or known consignor to the extent that the criteria for issuing the regulated agent or known consignor status are identical or equivalent to those laid down in Article 39(e) of the Code.

Article 29

Examination of the criteria(Article 22 of the Code)

1 For the purposes of examining the criteria laid down in Article 39(b) and (e) of the Code, the customs authority competent to take the decision shall ensure that on-the-spot verifications are carried out at all the premises that are relevant to the customs related activities of the applicant.

Where the applicant has a large number of premises, and the applicable time-limit for taking the decision does not allow for examination of all those premises the customs authority may decide to examine only a representative proportion of those premises if it is satisfied that the applicant applies the same security and safety standards at all of its premises and apply the same common standards and procedures for maintaining its records at all of its premises.

2 The customs authorities competent to take a decision may take into consideration the results of assessments or audits carried out in accordance with ^{F4}... legislation to the extent they are relevant for the examination of the criteria referred to in Article 39 of the Code.

3 For the purposes of examining whether the criteria laid down in Article 39(b), (c) and (e) of the Code are fulfilled, the customs authorities may take into account expert conclusions provided by the applicant, where the expert having drawn up the conclusions is not related to the applicant within the meaning of Article 127 of this Regulation.

4 The customs authorities shall take due account of the specific characteristics of economic operators, in particular of small and medium-sized enterprises, when examining the fulfilment of criteria laid down in Article 39 of the Code.

5 The examination of the criteria laid down in Article 39 of the Code as well as its results shall be documented by the customs authority competent to take the decision.

Textual Amendments

- F4** Word in Art. 29(2) omitted (31.12.2020) by virtue of The Customs Safety and Security Procedures (EU Exit) Regulations 2019 (S.I. 2019/715), regs. 1(2), 5(3)(e); 2020 c. 1, Sch. 5 para. 1(1)

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Article 30

Electronic system relating to the AEO status(Article 16(1) of the Code)

1 For the exchange and storage of information pertaining to applications for an authorisation as an authorised economic operator (AEO) and AEO authorisations granted and any further event or act which may subsequently affect the original decision, including annulment, suspension, revocation or amendment or the results of any monitoring or re-assessment, an electronic system set up for those purposes pursuant to Article 16(1) of the Code shall be used. The competent customs authority shall make information available through this system without delay and at the latest within 7 days.

An EU harmonised trader interface designed by the Commission and the Member States in agreement with each other shall be used for the exchange of information pertaining to applications and decisions related to AEO authorisations.

2 Where applicable, in particular when AEO status is a basis for the grant of approval, authorisations or facilitations under other F5... legislation, the F6... customs authority may grant access to the electronic system referred to in paragraph 1 to the appropriate F7... authority responsible for civil aviation security. The access shall be related to the following information:

- a the AEOS authorisations, including the name of the holder of the authorisation and, where applicable, their amendment or revocation or the suspension of the status of authorised economic operator and the reasons therefor;
b any re-assessments of AEOS authorisations and the results thereof.

The F7... authorities responsible for civil aviation security handling the information concerned shall use it only for the purposes of the relevant programmes for regulated agent or known consignor and shall implement appropriate technical and organisational measures to ensure the security of this information.

F83

Table with 2 columns: Reference (F5-F8) and Description of textual amendments. F5: Word in Art. 30(2) omitted... F6: Word in Art. 30(2) omitted... F7: Word in Art. 30(2) omitted... F8: Art. 30(3) revoked...

Article 31

Consultation procedure and exchange of information between customs authorities(Article 22 of the Code)

1 The customs authority competent to take the decision may consult customs authorities of other Member States which are competent for the place where necessary information is held

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or where checks have to be carried out for the purpose of examining one or more criteria laid down in Article 39 of the Code.

- 2 The consultation referred to in paragraph 1 shall be mandatory, where:
- a the application for the status of AEO is submitted in accordance with Article 12(1) of Delegated Regulation (EU) 2015/2446, to the customs authority - of the place where the applicant's main accounts for customs purposes are held or are accessible;
 - b the application for the status of AEO is submitted in accordance with Article 27 of Delegated Regulation (EU) 2015/2446, 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;
 - c a part of the records and documentation of relevance for the application for the status of AEO is kept in a Member State other than the one of the customs authority competent to take a decision;
 - d the applicant for the status of AEO maintains a storage facility or has other customs-related activities in a Member State other than the one of the competent customs authority.

3 By way of derogation from the time-limit laid down in the second sentence of the first subparagraph of Article 14(1) of this Regulation, the customs authorities shall complete the consultation process within 80 days from the date on which the customs authority competent to take the decision communicates the necessary conditions and criteria which have to be examined by the consulted customs authority.

4 Where the customs authority of another Member State has information of relevance for the granting of AEO status, it shall communicate that information to the customs authority competent to take a decision within 30 days starting from the date of the communication of the application through the electronic system referred to in Article 30 of this Regulation.

Article 32

Rejection of an application(Article 22 of the Code)

The rejection of an AEO application shall not affect existing favourable decisions taken with regard to the applicant in accordance with the customs legislation, unless the granting of those favourable decisions is based on the fulfilment of any of the AEO criteria that have been proven not to be met during the examination of the AEO application.

Article 33

Combination of both types of authorisations(Article 38(3) of the Code)

Where an applicant is entitled to be granted both an AEOC and an AEOS authorisation, the customs authority competent to take the decision shall issue one combined authorisation.

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Article 34

Revocation of an authorisation(Article 28 of the Code)

1 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 a criterion listed in Article 39 of the Code which is no longer met.

2 The revocation or amendment of a favourable decision which has been taken with regard to the holder of the authorisation shall not automatically affect the AEO authorisation of that person.

3 Where the same person is both an AEOC and an AEOS, and Article 28 of the Code or Article 15 of this Regulation is applicable owing to the non-fulfilment of the conditions laid down in Article 39(d) of the Code, the AEOC authorisation shall be revoked and AEOS authorisation shall remain valid.

Where the same person is both an AEOS and an AEOC, and Article 28 of the Code or Article 15 of this Regulation is applicable owing to the non-fulfilment of the conditions laid down in Article 39(e) of the Code, the AEOS authorisation shall be revoked and AEOC authorisation shall remain valid.

Article 35

Monitoring(Article 23(5) of the Code)

1 The customs authorities of the Member States shall inform the competent customs authority without delay of any factors arising after the grant of the status of AEO which may influence its continuation or content.

2 The competent customs authority shall make available all relevant information at its disposal to the customs authorities of the other Member States where the AEO carries out customs-related activities.

3 Where a customs authority revokes a favourable decision which has been taken on the basis of the status of AEO, it shall notify the customs authority which granted the status.

4 Where the AEOS is a regulated agent or a known consignor as defined in Article 3 of Regulation (EC) No 300/2008 and fulfils the requirements laid down in Regulation (EU) No 185/2010, the competent customs authority shall immediately make available to the appropriate national authority responsible for civil aviation security the following minimum information related to the AEO status which it has at its disposal:

- a the AEOS authorisation, including the name of the holder of the authorisation and, where applicable, its amendment or revocation or the suspension of the status of authorised economic operator and the reasons therefor;
- b information about whether the specific site concerned has been visited by customs authorities, the date of the last visit, and whether the visit took place with a view to the authorisation process, re-assessment or monitoring;
- c any re-assessments of the AEOS authorisation and the results thereof.

The national customs authorities shall, in agreement with the appropriate national authority responsible for civil aviation security, establish detailed modalities for the

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exchange of any information which is not covered by the electronic system referred to in Article 30 of this Regulation.

The national authorities responsible for civil aviation security handling the information concerned shall use it only for the purposes of the relevant programmes for regulated agent or known consignor and shall implement appropriate technical and organisational measures to ensure the security of the information.

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- (1) Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 ([OJ L 97, 9.4.2008, p. 72](#)).
- (2) Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security ([OJ L 55, 5.3.2010, p. 1](#)).

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Changes and effects yet to be applied to :

- Recital 61 replacement by [EUR 2017/989](#) Regulation