



## How will implementation of the Union Customs Code on 1 May 2016 impact you?

### Both Authorised Economic Operators (AEOs) and prospective AEOs, read on:

Recent publications from HMRC:

- (a) Introduction to the Union Customs Code 24.10.14 [\(link\)](#)
- (b) AEO and the Union Customs Code 6.10.14 [\(link\)](#)

We have taken a close look at these developments along with other current information available. We set out below our observations, which we hope will be useful to existing AEO holders and those who may wish to consider applying for the authorisation before the UCC comes in.

#### 1. UCC – Main Changes

- Introduction of Self Assessment and Centralised Clearance.
- Mandatory guarantees for special procedures and temporary storage
- The ability to move goods under temporary storage rather than the National Transit or New Computerised Transit System (NCTS).
- Removal of previous sales provisions relating to valuation.
- Electronic communication between Economic Operators and Customs

#### 2. Guidance

2.1 Will be published by HMRC in May 2015

#### 3. AEO

3.1 Advice which appears in “Introduction to the UCC” suggests that you don’t necessarily have to have AEO status to enjoy certain benefits of the new Customs rules and requirements under the UCC, whereas in practice HMRC have recommended applicants against attempting to meet the requirements without gaining the AEO benefits! We are told that:

*“Many authorisations and simplifications within the UCC require you to meet some of the AEO(c) criteria. You will need to make a commercial decision about AEO status based on the information available, your business activities and your role in the supply chain.”*

*There will be a professional competence requirement for AEOs, which could be measured by:*

- (a) *Practical standards of competence*
- (b) *Professional qualifications related to the activities of the business*
- (c) *Compliance will be extended to include: VAT, Corporation Tax and national Insurance*

*In real terms there is little difference between meeting AEO criteria and being an Authorised AEO. The main difference is that in most instances only some of the AEO criteria have to be met (perhaps 2 or 3 of the basic conditions) and therefore, you might not want to go through the whole authorisation process.”*



- 3.2 It is not clear how you would be assessed to satisfy HMRC that you meet these criteria as HMRC have not provided those details. We do know that HMRC AEO auditors are very thorough when vetting an applicant for AEO, and we believe that to achieve some of the criteria they would be equally demanding. Is this an HMRC plan to allow UK businesses a sort of “Back Door AEO?” In the “AEO and the Union Customs Code document” we can see why there may be alarm bells ringing at HMRC HQ; we heard some time ago that HMRC had asked Brussels for some slack in the implementation of the guarantee regime, and was refused:

|  |               |
|--|---------------|
| <i>UK – 576 applications received</i>                |               |
| <i>Total certificates issued</i>                     | <i>354</i>    |
| • <i>AEO(F)</i>                                      | <i>289</i>    |
| • <i>AEO(C)</i>                                      | <i>54</i>     |
| • <i>AEO(S)</i>                                      | <i>11</i>     |
| <i>EU<sup>1</sup> – 16,798 applications received</i> |               |
| <i>Total certificates issued<sup>1</sup></i>         | <i>13,385</i> |
| • <i>Germany</i>                                     | <i>6,237</i>  |
| • <i>Netherlands</i>                                 | <i>1,409</i>  |
| • <i>France</i>                                      | <i>1,072</i>  |
| • <i>Italy</i>                                       | <i>854</i>    |
| • <i>Poland</i>                                      | <i>712</i>    |
| • <i>Spain</i>                                       | <i>569</i>    |
| • <i>Sweden</i>                                      | <i>323</i>    |

*1: Includes UK figures*

- 3.3 With just 18 months to go before the UCC, the UK has only 2.64 percent of the certificates issued. Non AEO holders who conduct third country trade and customs procedures could be in serious financial peril. HMRC policy on AEO status following the introduction of the UCC appears to be that importers and exporters who engage in customs activities including: IPR, Customs Warehousing, Temporary Storage, and Community Transit, must satisfy AEO criteria, the absence of which will result in financial guarantees being levied for the potential duty suspended by these activities. As HMRC further state:

*It is not mandatory to become an AEO unless you wish to obtain a duty deferment guarantee reduction or you wish to be authorised for:*

- *moving goods in temporary storage between different member states*
- *Centralised Clearance*
- *waiver of the presentation of goods requirement when making declarations in your records*
- *Self Assessment*
- *Single Transport Contract*

The question is will they be given a lifeline by HMG? If you trade with the USA and other signatories to the joint recognition treaties then your AEO status is recognised, it is difficult to see how, and most unlikely, that such a joint recognition treaty would be retrospectively extended by a foreign state to include “certain AEO criteria”. For this reason alone it is surely better to have the AEO authorisation.

#### **4. Identifiable Benefits of AEO Status from 1 May 2016 (UCC)**

- 4.1 Guarantees – Under current legislation a Member State has the discretion to decide when a guarantee is or is not required. Under the UCC there will be circumstances where the provision of a guarantee is compulsory. AEOs will benefit by being allowed a full or partial waiver.



4.2 The UK now asks for guarantees under the UCC to calculate a reference amount:

- (a) The volume of the goods placed under the procedure (using data from the last 12 months)
- (b) The length of time the goods will be in the procedure
- (c) The revenue that would be due on them at the time they entered the procedure.

#### 4.3 Guarantee Waivers or Reductions –

- (a) A single transaction guarantee cannot be waived
- (b) A comprehensive guarantee for a special procedure can be reduced or waived
- (c) A guarantee for a deferment account can only be reduced not waived.

You will need to hold AEO (c) or (f) authorisation in order to reduce the guarantee to cover the payment of actual debts (e.g: reduce the amount of deferment guarantee).

You will not need to hold an AEO (c) or (f) authorisation to benefit from a waiver or reduction for a guarantee for potential debts (e.g: goods held in duty suspension or in community transit), but certain AEO criteria will have to be met.

#### 4.4 Community Transit

For each transit operation a guarantee to cover the potential duties is normally charged. Customs can accept a comprehensive guarantee which will encompass an agreed level of activity over a month. The duties are guaranteed in the equivalent sum of 100%, which can be reduced to 50% or to 30%. A full waiver can be allowed, depending on a set of factors prescribed by HMRC. These are set out below:

- (a) Level of co-operation with Customs
- (b) Has sufficient financial resources to meet its obligations
- (c) Sufficient experience of Community Transit transactions and procedures
- (d) Has a proven track record of transport operations.

If the operator has AEO status (AEO (c) or (f)) it is considered that the requirements of (a) and (b) are met. If (c) and (d) are met the operator should be entitled to a transit guarantee waiver. In practice HMRC have not always agreed to this protocol even though other Member States including Belgium have already implemented it. It remains to be seen how the mandatory guarantees will be managed after the UCC. A full CT guarantee waiver for AEOs will be a shot in the arm for the international trade industry and the freight forwarders.

#### 4.5 Temporary Storage

ERTS are now termed ETSF (External Temporary Storage Facilities) but the rules of operations are largely unchanged. If you want to operate a Temporary Storage facility after 1 May 2016, you will have to sign up to additional terms and conditions that will be added to your existing TS approval.

The time limit for keeping goods under Temporary Storage is increased to 90 days.



A Guarantee will be required unless conditions for a waiver or reduction are met. For AEO (c) & (f) holders some conditions can be considered as met. You will not need a guarantee to simply place goods in a Temporary Storage facility.

AEO holders will be able to transfer goods under Temporary Storage between each other.

## 5. **Contact Veracis**

We are in regular contact with HMRC AEO management team to keep abreast of developments. The next milestone towards the UCC will be the guidance for economic operators due on 1 May 2015.

We will be happy to discuss how AEO and UCC might benefit your business.

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