

NOTE

Subject: Review of Accredited Client Programme (ACP) and Authorized Economic Operator (AEO) programme — Revised AEO Guidelines.

Please refer to the CBEC Circulars no.42/2005 dated 24.11.2005 as amended regarding the ACP scheme and circular no 28/2012-Customs dated 16.11.2012 regarding AEO programme.

2. The Board has decided to merge the two facilitation schemes namely ACP and AEO into a combined three-tier AEO programme, and also enhance the scope of these programmes so as to provide further benefits to the entities who have demonstrated strong internal control system and willingness to comply with the laws administered by the Central Board of Excise and Customs. The prominent features of the new programme are:

- i. Inclusion of Direct Port Delivery of imports to ensure just-in-time inventory management by manufacturers – clearance from wharf to warehouse
- ii. Inclusion of Direct Port Entry for factory stuffed containers meant for export by manufacturers or star trading houses recognized by Commerce Ministry
- iii. Special focus on small and medium scale entities – any entity handling 25 import or export documents annually can become part of this programme
- iv. Provision of Deferred Payment of duties – delinking duty payment and Customs clearance
- v. Extension of facilitation to exports in addition to imports
- vi. Faster disbursal of drawback amount
- vii. Fast tracking of refunds and adjudications
- viii. Self-certified copies of FTA / PTA origin related or any other certificates required for clearance would be accepted
- ix. Request based on-site inspection /examination
- x. Paperless declarations with no supporting documents
- xi. Recognition by Partner Government Agencies and other Stakeholders as part of this programme
- xii. Mutual Recognition Agreements with other Customs Administrations

3. The revised AEO Programme is appended to this draft Circular.

4. All the entities already certified under AEO Programme pursuant to Circular No 37/2011-Cus., dated 23.08.2011 and No. 28/2012-Customs dated 16.11.2012 would be accorded the status of AEO (Tier-Two) and shall be entitled to benefits as per the draft circular subject to their adherence to prescribed standards and guidelines issued in this regard.

5. The entities already accorded the ACP status pursuant to Circular No. 42/2005 dated 24.11.2005 as amended would be granted one time opportunity for transition to the AEO status in terms of this circular. They are required to submit their applications in terms of this circular within 90 days. In the meantime, they would be provisionally granted the status of AEO (Tier-One).

6. Before issuing the Circular, the revised AEO scheme is being put in the public domain for inviting valuable suggestions of all the stakeholders. The proposed revision of AEO scheme may be given wide publicity. Suggestions/ improvements/ comments may be sent by email to Ms. Shaifali Singh, Under Secretary (CusIV) (Shaifali.Singh@icegate.gov.in) by 30.6.16 positively.

Authorized Economic Operator (AEO) Programme
(DRAFT Circular No. .../2016-Customs dated

Section 1

General Provisions

1.1 Introduction:

1.1.1 Customs organizations all over the world are tasked with the twin challenges of securing the borders from unlawful trade and at the same time facilitating the legitimate trade. Trade security and facilitation is one of the key determinants for the economic development of the countries. Customs, being the government organization that controls and administers the international movement of goods, is in a unique position to provide increased security to the global supply chain and to contribute to socio-economic development through revenue collection and trade facilitation. With a view to secure the international supply chain, the World Customs Organisation had in June 2005 adopted the SAFE Framework of Standards to secure and facilitate global trade. Since then, this unique international instrument has ushered in modern supply chain security standards with the help of a closer partnership between Customs and business in the form of Authorised Economic Operator (AEO) programme, which constitutes one of the three pillars on which SAFE Framework rests. The AEO programme seeks to provide tangible benefits in the form of faster Customs clearances and simplified Customs procedures to those business entities who offer a high degree of security guarantees in respect of their role in the supply chain. The SAFE Framework sets forth the criteria by which businesses in the supply chain can obtain authorized status as a secure partner. Such criteria address issues such as threat assessment, a security plan adapted to the assessed threats, procedural measures to prevent illegitimate goods entering the supply chain, physical security of buildings and premises used as loading or warehousing sites, and security of cargo, means of transport, personnel and information system.

1.1.2 Over the years, AEO has become a flagship programme for WCO Members as it offers an opportunity for Customs to share its responsibilities with the businesses, while at the same time rewarding them with a number of additional benefits. As of March, 2015, 168 out of 180 WCO Members have signed Letters of Intent committing to implement the SAFE Framework. In India, the AEO programme was launched in 2011.

1.1.3 Prior to adoption of the SAFE Framework by WCO in 2005, Customs administrations all over the world, including India, were already implementing various forms of Customs compliance programmes which focused on compliance with traditional areas of Customs requirements, and which can also be considered as trade facilitation programmes, based on the Revised Kyoto Convention's "authorized persons" provisions. In India, this programme was known as Accredited Client Programme (ACP). On the other hand, Article 7.7 (Trade Facilitation Measures for Authorized Operators) of the WTO Trade Facilitation Agreement (TFA) also provides for implementation of "Authorized Operator" scheme on the basis of international standards, where such standards exist.

1.1.4 In the light of these international developments, as well as in view of the focus of the Government of India on “Ease of Doing Business”, it has become imperative to develop a comprehensive unified trade facilitation programme by incorporating the existing ACP scheme and ongoing AEO programme into a revised AEO programme providing additional facilities to the legitimate trade who have demonstrated strong internal control system and willingness to comply with the laws administered by the Central Board of Excise and Customs. The objective of the revised AEO Programme shall continue to remain same as earlier that is to provide businesses with an internationally recognized quality mark which will indicate their secure role in the international supply chain and that their Customs procedures are efficient and compliant. An entity with an AEO status can, therefore, be considered a 'secure' trader and a reliable trading partner.

1.2 The Three tier AEO programme

It has been decided that the exiting ACP and AEO programmes will be merged into this new AEO programme. For the economic operators other than importers and the exporters, the new programme offers only one tier of certification whereas for the importers and the exporters, there will be three tiers of certification. Accordingly, henceforth the AEO Programme Manager may, following an application by an economic operator, issue the following Authorised Economic Operator Certificates (hereinafter referred to as AEO certificates) to which the applicant may be eligible as per the eligibility conditions and criteria laid down under paragraph 3 of this circular:

1.2.1 AEO (Tier-One) Certificate– This certificate may be granted only to an importer or to an exporter.

For the purpose of this certificate,

- (i) the Importer/ Exporter should fulfill the criteria mentioned at para 3.1 below; and
- (ii) All other requirements as stipulated in paragraphs 3.2, 3.3 and 3.4 below shall be considered to have been met if the information and documents submitted by the applicant prove the claims of the applicant to the satisfaction of the AEO Programme Manager.

1.2.2 AEO (Tier-Two)Certificate– This certificate may be granted to all-categories of economic operators namely importers, exporters, Logistics Providers, Custodians or Terminal Operators, Customs Brokers and Warehouse Operators.

For the purpose of this certificate,

- (i) the economic operator should fulfill the criteria mentioned at para 3.1 below; and
- (ii) all other requirements as stipulated in paragraphs 3.2, 3.3, 3.4 and 3.5 below shall be considered to have been met if the claims made in this regard in information and documents submitted by the applicant have been physically verified by the AEO Programme Team by visiting the concerned places/premises of the applicant, on the

dates decided by mutual consent by the team and the applicant, and found to be true to the satisfaction of the AEO Programme Manager.

1.2.3 AEO (Tier-Three) Certificate - This certificate may be granted only to an importer or to an exporter.

For the purpose of this certificate,

- (i) The economic operator should have continuously enjoyed the status of AEO (Tier-Two) for at-least a period of two years preceding the date of application for grant of AEO (Tier-Three) status; or
- (ii) Its other business partners in the supply chain namely Logistics Service providers, Custodians/Terminal operators, Customs Brokers and Warehouse operators are holders of AEO-Tier-II certificate;

1.2.4 The holders of AEO Certificates (hereinafter referred to as the AEOs) shall be entitled to benefits laid down in paragraph 1.3 below, as may be applicable to them. However, such benefits may be denied by the Customs Authorities to the AEO on account of specific information or intelligence indicating that the Certificate Holder is misusing the benefits granted to it and all such instances shall be reported as soon as possible by the Customs Authorities to the AEO Programme Manager, who shall take necessary action, if required, for suspension, downgrading or revocation of the AEO status.

1.2.5 The benefits to the holder of AEO Certificate shall be subject to the AEO concerned providing the AEO Certificate Number to the Customs Authorities.

1.2.6 All the existing AEOs who have been granted the AEO certificate in terms of the erstwhile AEO circulars and who continue to possess such certificates validly shall be granted AEO (Tier- Two) Certificate by the AEO Programme Manager within 15 days of issue of this circular, and thereafter, they shall become entitled for benefits in terms of this circular in terms of paragraph 1.3 below. They shall remain AEO (Tier-Two) certificate holders till the validity period mentioned in their AEO certificate issued under Circular 28/2012 –Cus dated 16-11-2012. Thereafter, they will have to follow renewal procedure as prescribed in this circular.

1.2.7 All the existing ACP clients who have been granted ACP status in terms of the erstwhile ACP circulars and who continue to possess such status validly shall be provisionally granted AEO (Tier-One) Certificate by the AEO Programme Manager within 15 days of issue of this circular, and thereafter, they shall become entitled for benefits in terms of this circular in terms of paragraph 1.3 below. They shall remain AEO (Tier-One) certificate holders till the validity period mentioned in their ACP renewal /granting letter. Thereafter, they will have to follow renewal procedure as prescribed in this circular.

1.2.8 All such ACP clients shall submit applications for grant of AEO Certificates in terms of this circular within 90 days of issue of this circular. The validity period and the entitlement to benefits for ACP clients who fail to submit application within 90 days shall be taken up for review.

1.2.9 However, ACP clients who submit the applications within 90 days of issue of this circular shall continue to avail the benefits of AEO (Tier-One) till a decision is taken by the AEO Programme Manager to issue them the AEO Certificates as applicable to them, and benefits in terms of this circular is extended to them. In case, they are not found to be eligible for the AEO Certificates, they would no longer be entitled to the benefits of AEO (Tier-One).

1.3 Benefits of an AEO certificate

The scope of the benefits to the AEOs based on their categories would be as mentioned below:

1.3.1 Benefits for AEO-Tier-One:

- (i) They shall be accorded high level of facilitation in imports and export of their consignments, thereby ensuring shorter cargo release time.
- (ii) Facility of Direct Port Delivery (DPD) of their import Containers and/ or Direct Port Entry (DPE) of their Export Containers would be available to them. However, this facility will be dependent on the volume of their Import/ Export trade in terms of number of containers.
- (iii) ID cards to be granted to authorized personnel for hassle free entry to Custom Houses, CFSs and ICDs.
- (iv) Wherever feasible, they will get separate space earmarked in Custodian's premises.
- (v) In case they are required to furnish a Bank Guarantee, the quantum of the Bank Guarantee would be 50% of that required to be furnished by an importer/exporter who is not an AEO Certificate Holder. However, this exemption from Bank guarantee would not be applicable in cases where the Competent Authority orders furnishing of Bank Guarantee for provisional release of seized goods.
- (vi) Expedited Investigations, if any, in respect of Customs, Central Excise and Service Tax cases.
- (vii) Expedited dispute resolution at the level of Adjudicating Authorities in respect of Customs, Central Excise and Service Tax cases.
- (viii) They will not be subjected to regular PCA, instead of that onsite PCA will be conducted once in a year only.
- (ix) They will get an e-mail regarding arrival/ departure of the vessel carrying their consignments.
- (x) 24/7 clearances on request at all sea ports and airports

1.3.2 Benefits for AEO-Tier-Two:

The following benefits would be provided over and above the benefits offered in tier-one:

- i. They shall be accorded higher level of facilitation (as compared to AEO Tier-One) in imports and export of their consignments.
- ii. For Importers/Exporters not opting for DPD/DPE, seal verification/Scrutiny of documents by Custom officers would be waived.
- iii. The containers selected for scanning will be scanned on priority.
- iv. The BEs/SBs selected for Assessment and/or Examination will be processed on priority by the Customs officers.
- v. In case they are required to furnish a Bank Guarantee, the quantum of the Bank Guarantee would be 25% of that required to be furnished by an importer/

exporter who is not an AEO Certificate Holder. However, this exemption from Bank guarantee would not be applicable in cases where the Competent Authority orders furnishing of Bank Guarantee for provisional release of seized goods.

- vi. They will be given facility to paste MRP stickers in their premises.
- vii. They will not be subjected to regular PCA instead of that onsite PCA will be conducted once in two years only.
- viii. They will be given access to their consolidated import/export data through ICEGATE from a date that would be communicated separately.
- ix. On request they would be provided on-site inspection /examination
- x. They would be provided the facility of submitting paperless declarations with no supporting documents in physical form
- xi. All Custom Houses will appoint a nodal officer as a single point of interaction with them.
- xii. The refund/Rebate of Customs/Central Excise duty and Service Tax would be granted within 45 days of the submission of complete documents.
- xiii. They will get trade facilitation by a foreign Customs administration with whom India enters into a Mutual Recognition Agreement/Arrangement.
- xiv. Facility of deferred payment of duty will be provided, from a date to be notified
- xv. Faster disbursal of drawback amount, from a date to be notified

1.3.3 Benefits for AEO-Tier-Three:

The following benefits would be provided over and above the benefits offered in Tier-Two:

- i. They shall be accorded highest level of facilitation (as compared to AEO Tier-Two) in imports and export of their consignments.
- ii. Their containers will not be selected for scanning except on the basis of specific intelligence. Further when any container is selected for scanning, top most priority will be given for scanning.
- iii. The assessing/examining custom officer will rely on the self-certified copies of documents submitted by them without insisting upon original documents.
- iv. They would not be required to furnish any Bank Guarantee. However, this exemption from Bank guarantee would not be applicable in cases where the Competent Authority orders furnishing of Bank Guarantee for provisional release of seized goods.
- v. An approach based on Risk based interventions, in case of requirements originating from the Acts administered by other Government Agencies/Departments, will be adopted for providing better facilitation in imports and export of their consignments.
- vi. They will not be subjected to regular PCA instead of that onsite PCA will be conducted once in three years only.
- vii. The refund/Rebate of Customs/Central Excise duty and Service Tax would be granted within 30 days of the submission of complete documents.

1.3.4 Specific benefits to all other categories of Authorised Economic Operators, other than importers and exporters:

Sl. No	Entity	Facilities to be provided
1	Logistic Service Providers	(a) Waiver of bank Guarantee in case of trans-shipment of goods under Goods imported (Condition of Trans-shipment) Regulations, 1995. (b) Facility of Execution of running bond. (c) Exemption from permission on case to case basis in case of transit of goods. In case of international transshipped cargo (Foreign to Foreign), for the pre-sorted containers wherein Cargo does not require segregation, ramp to ramp or tail to tail transfer of cargo can be effected without Customs escorts.
2	Custodians or Terminal Operators	(a) Waiver of bank Guarantee under Handling of cargo in Customs Area Regulations 2009. (b) Extension of approval for custodians under regulation 10(2) of the 'Handling of cargo in Customs Area Regulation 2009 'for period of 10 years.
3	Customs Brokers	(a) Waiver of Bank Guarantee to be furnished under regulation 8 of the CBLR, 2013. (b) Extended validity (till validity of AEO status) of licenses granted under regulation 9 of the CBLR 2013. (c) Waiver from fee for renewal of license under sub regulation (2) of regulation 11 of CBLR, 2013.
4	Warehouse Operators	(a) Faster approval for new warehouses (b) Waiver of antecedent verification envisaged for grant of license for warehouse under circular 26/2016 (c) Waiver of solvency certificate requirement under circular 24/2016 (d) Waiver of security for obtaining extension in warehousing period under circular 21/2016 (e) Waiver of security required for warehousing of sensitive goods under circular 21/2016

1.3.5 With a view to promote an overall voluntary compliance framework, the selection of AEO's for on-site post clearance audit in all three tiers shall be based on risk assessment. Better and higher compliance level demonstrated by the AEO shall be taken into account for determining the frequency of audit. It is also clarified that AEO's undergoing OSPCA shall not be subjected to routine transactional PCA. Detailed guidelines on risk based OSPCA will be issued subsequently.

Section 2

Application for an AEO certificate

2.1 An applicant for grant of AEO status should submit the following:

- (i) Application for Authorized Economic Operator Status
- (ii) Security plan
- (iii) Process map
- (iv) Site plan
- (v) Self-Assessment Form

2.2 The applicant shall nominate a readily accessible central point of contact person within the administration of the applicant, in order to make available to the AEO Programme Manager or to any officer authorised by the AEO Programme Manager all the information necessary for proving compliance with the requirements for issuing the AEO certificate.

2.3 The application should be sent to the AEO Programme Manager, Directorate General of Performance Management, Customs & Central Excise, 'D' Block, I.P. Bhawan, I.P. Estate, New Delhi – 110002.

2.4 The Additional Director General, Directorate General of Performance Management, Customs & Central Excise, 'D' Block, I.P. Bhawan, I.P. Estate, New Delhi – 110002 will be the AEO Programme Manager and AEO Programme Team will comprise officers from the Directorate General of Performance Management and its regional offices.

Section 3

Eligibility conditions and criteria for granting the AEO certificate

3.1 Who can apply for AEO certificate?

3.1.1 Anyone involved in the international supply chain that undertakes Customs related activity in India can apply for AEO status irrespective of size of the business. These may include exporters, importers, logistic providers (e.g. carriers, airlines, freight forwarders, etc.), Custodians or Terminal Operators, Customs House Agents and Warehouse Owners. Others who may qualify include port operators, authorized couriers, stevedores. The list is not exhaustive.

3.1.2 Businesses that are not involved in Customs related work / activities will not be entitled to apply. This means that in general, banks, insurance companies, consultants and the like categories of businesses will not be eligible for AEO status.

3.1.3 Application for AEO status will only cover the legal entity of the applicant and will not automatically apply to a group of companies.

3.1.4 There is no provision to grant AEO status to specific site, division or branch of legal entity of the applicant. The application must cover all the activities and locations of the legal entity involved in the international supply chain and the prescribed criteria will be applied across all those activities and locations.

3.1.5 In order to apply for AEO status the applicant must be established in India. For this purpose, the applicant should provide evidence which may include:

- (i) A certificate of registration issued by the Registrar of Companies.
- (ii) Details of places/locations where goods are being handled, e.g. loading, unloading, storage etc., in the course of supply to/from international supply chain.
- (iii) Proof that the business has its own accounts.

3.1.6 The applicant should have business activities for at least three financial years preceding the date of application. However in exceptional cases, on the basis of physical verification of internal controls of a newly established business entity, the AEO Programme Manager may consider it for certification.

3.1.7 Keeping the small and medium scale enterprises in mind it has been decided the AEO programme is made open to all Importers/Exporters whose threshold of import or export declarations is 25 documents i.e. either Bills of Entry or Shipping bills during the last financial year. Similarly, the other economic operators should have handled at least 25 documents i.e. Bills of Entry or Shipping bills during the last financial year.

3.1.8 An AEO status applies only to the legal entity applying for such status in its own capacity and covering its role in the international supply chain. Therefore, AEO status can be granted to a Customs Broker, but this will not confer similar status on its client importers / exporters who will need to apply separately for that status.

3.1.9 The AEO Programme is open to all economic operators, including micro, small and medium enterprises (MSMEs) and the eligibility conditions and criteria for granting the AEO Certificates are the same for all economic operators regardless of their size. However, the AEO Programme Manager shall take due account of the specific characteristics of economic operators, in particular of MSMEs, while applying the eligibility conditions and criteria prescribed under paras 3.3 (relating to management of commercial and transport records), and those under paras 3.5 (relating to safety and security) for granting the above AEO Certificates. The AEO Programme Manager shall take into account such factors as the size of the MSMEs, the legal status (e.g. proprietorship, partnership etc), the structure, the key business partners and also the specific economic activity of the economic operator while applying these eligibility conditions and criteria specified under paras 3.3 and 3.5. In particular, the AEO Programme Manager shall take into account the possible difficulties for MSMEs in meeting with these eligibility conditions and criteria under paras 3.3 and 3.5 with a view to make the above AEO certificates more available to MSMEs.

3.1.10 DG (Systems), CBEC will progressively introduce a solution, which will not only cater to the management of AEO enrolment life-cycle but will also help ensure that all Authorised Economic Operators receive high quality service.

3.2 Legal Compliance:

3.2.1 The record of legal compliance shall be considered as appropriate if over the three financial years preceding the submission of the application, the cases of infringement of Customs Laws by any of the following persons is considered by the AEO Programme Manager to be of negligible importance when compared with the volume of the customs related operations, and not to create doubt concerning the good faith of the applicant:

- (i) the applicant;
- (ii) the person in charge of the applicant company or exercising control over its management;
- (iii) the person responsible in the applicant company for customs matters.

3.2.2 There should be no show cause notice issued to them during last three financial years involving fraud, forgery, outright smuggling, clandestine removal of excisable goods or cases where Service Tax has been collected from customers but not deposited to the Government.

3.2.3 There should be no case wherein prosecution has been launched or is being contemplated against the applicant or its senior management.

3.2.4 The ratio of disputed duty demanded or drawback demanded or sought to be denied, in all the show cause notices issued under the Customs Act, 1962 during the last three financial years, to the total duty paid and drawback claimed during the said period is less than five percent.

Explanation: for para 3.2.2, 3.2.3 and 3.2.4 above, the cases where the show cause notices have been dropped or decided in favour of the applicant by the adjudicating or appellate authorities won't be considered.

3.2.5 An applicant will also need to demonstrate that he has:

- (i) procedures in place to identify and disclose any irregularities or errors to the Customs authorities or, where appropriate, other regulatory bodies.
- (ii) taken appropriate remedial action when irregularities or errors are identified.

3.2.6 Once an error has been identified, the applicant is expected to take steps to ensure that they do not happen again or, at least, to ensure that they are immediately remedied if they do arise. Failure to take such steps could count against applicant.

3.3 Managing commercial and (where appropriate) transport records:

The applicant should have a satisfactory system of managing commercial and, where appropriate, transport records. To enable the AEO Programme Manager to establish that the applicant indeed has such a system, the applicant shall:

- i. Maintain an accounting system consistent with Generally Accepted Accounting Principles (GAAP) / International Financial Reporting Standards (IFRS) which facilitates audit-based Customs control;
- ii. Have an administrative set up which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;
- iii. Wherever applicable, have satisfactory procedures in place for the handling of licenses and authorizations connected to export/import;
- iv. Have satisfactory procedures in place for archiving of the company's records and information, and also for protection against the loss of information;
- v. Ensure that employees are made aware of the need to inform the Customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the Customs authorities of such occurrences;
- vi. Have satisfactory procedures for verifying the accuracy of Customs declarations.
- vii. Have appropriate information technology security measures to protect the applicant's computer system from unauthorized intrusion and to secure the applicant's documentation.

3.4 Financial solvency

An applicant must be financially solvent during the three financial years preceding the date of application. The applicant should not be listed currently as insolvent, or in liquidation or bankruptcy. Further, the applicant should not have defaulted in payment of due taxes during the past three years.

The applicants must submit an undertaking regarding its solvency and a Solvency Certificate issued by the Statutory Auditor of the applicant.

3.5 Safety and security

3.5.1 The applicant must have in place appropriate internal controls and measures to ensure safety and security of applicant's business and his supply chain, in addition to

any specific legal requirements that may be applicable to the business. In order to satisfy the requirements of AEO status, the applicant will need to ensure security of procedures, cargo, procedures, conveyances, premises, personnel and business partners. The applicant's security and safety standards shall be considered to be appropriate if the following conditions are fulfilled:

3.5.2 Procedural Security

In order to ensure security of the international supply chain, the applicant must have in place appropriate internal controls and measures to ensure safety and security of procedures relating to applicant's business and his supply chain. With this view, following criteria should be fulfilled by the applicant:

- i. The applicant should develop and maintain a security policy and procedure manual which shall contain detailed guidelines on procedures to be followed to preserve the integrity of the cargo while in its custody, loading and unloading from transport conveyance and during transport. The manual should also stipulate how seals are to be controlled and affixed to cargo and transport conveyances.
- ii. Security measures should be in place to ensure the integrity and security of processes relevant to the transportation, handling, and storage of cargo in the supply chain.
- iii. Proper documentation of management procedure should be in place to ensure that all documentation used in the clearing of cargo is legible, complete, accurate and protected against the exchange, loss of introduction of erroneous information.
- iv. Procedure should be in place to ensure that information received from business partners is reported accurately and timely as well as declared in the time limit regulated by Customs.
- v. Procedure should be in place to ensure that:
 - a. Import / Export cargo are reconciled against the information on the bill of lading.
 - b. The weights, labels, marks and piece count of the import/export cargo are accurately indicated.
 - c. Import/export cargo are verified against purchase/delivery orders.
 - d. Drivers delivering or receiving cargo are positively identified before cargo is received or released.
- vi. All shortages, overages, and other significant discrepancies or anomalies must be resolved and/or investigated appropriately.

3.5.3 Premises Security:

In order to ensure security of the international supply chain, the applicant must ensure that the buildings to be used in connection with the operations to be covered by the certificate are constructed of materials which resist unlawful entry and provide

protection against unlawful intrusion. In addition, the applicant must ensure that appropriate access control measures are in place to prevent unauthorized access to shipping areas, loading places and cargo areas. With this view, following criteria should be fulfilled by the applicant:

- i. Buildings must be secure against unlawful entry.
- ii. All gates, fences and windows must be secured with locking devices or alternative access monitoring or control measures.
- iii. Authorised personnel must control the issuance of locks and keys.
- iv. Adequate internal and external lighting must be provided especially for entrances and exits, cargo handling and storage areas, fence lines and parking areas.
- v. Gates through which vehicles and/or personnel enter/exit must be manned, monitored or otherwise controlled. Vehicles accessing restricted areas must be parked in approved area and their license plate numbers furnished to Customs upon request.
- vi. Only properly identified and authorized persons, vehicles and goods may be permitted access.
- vii. Access to document or cargo storage areas may be restricted.
- viii. There should be appropriate security systems for access control.
- ix. Restricted areas should be clearly identified.
- x. Integrity of structures and systems must be periodically inspected.
- xi. Perimeter fencing should enclose the areas around cargo handling and storage facilities.
- xii. Clear demarcation within a cargo handling structure should be created to segregate domestic, international, high value and hazardous cargo.
- xiii. The number of gates should be kept to the minimum necessary for proper access and safety.
- xiv. Unauthorised vehicles should be prohibited from parking in or adjacent to cargo handling and storage areas.

3.5.4 Cargo Security:

In order to ensure security of the international supply chain, the applicant must have in place appropriate measures for the handling of goods include protection against the introduction, exchange or loss of any material and tampering with cargo units. With this view, following criteria should be fulfilled by the applicant:

- i. Only properly identified and authorised persons should have access to the cargo.
- ii. Integrity of cargo should be ensured by permanent monitoring or keeping in a safe, locked area.
- iii. All seals must meet the current PAS / ISO 17712 standards for high security seals. In cases it is not possible to procure and use PAS / ISO 17712 seals for air consignments/courier consignments any international seal compatible with standards of PAS/ISO 17712 shall be used. However in case of maritime containerized cargo only PAS / ISO 17712 seals shall be used.
- iv. The integrity of container seals should be checked by the authorized person by following the procedure prescribed in the security policy manual.
- v. Only authorised personnel should distribute container seals and safeguard their appropriate and legitimate use.
- vi. When appropriate to the type of cargo container used, a seven-point inspection process is recommended: Front wall, Left side, Right side, Floor, Ceiling/Roof, Inside/outside doors, Outside/undercarriage.
- vii. Appropriate procedures should be laid down on measures to be taken when an unauthorized access or tampering is discovered.
- viii. Goods should be uniformly marked or stored in designated areas and procedures should exist to weigh / tally them and compare them against transport documents, purchase/sales orders and Customs papers.
- ix. Internal control procedures should exist when discrepancies and/or irregularities are discovered.

3.5.5 **Conveyance Security:**

In order to ensure security of the international supply chain, the applicant must ensure that the conveyances to be used in connection with the operations to be covered by the certificate are handled in a manner which ensures security of the cargo. With this view, the applicant must:

- i. ensure to the extent possible that all conveyances used for the transportation of cargo within the supply chain are capable of being effectively secured.
- ii. ensure to the extent possible that all operators of conveyances used for transport of cargo are trained to maintain the security of the conveyance and the cargo at all times while in its custody.
- iii. require operators, to report actual or suspicious incident to designated security department staff of the applicant company as well as to maintain records of these reports, which should be available to the AEO Programme Team and the Customs.
- iv. ensure that potential places of concealment of illegal goods on conveyances are regularly inspected,

- v. ensure that transporters make sure that conveyance integrity is maintained while the conveyance is en route transporting cargo to export/import points or import/transit containers by utilizing a tracking and monitoring activity log or records.
- vi. ensure that pre-determined routes are identified by the dispatcher, and procedures must consist of random route checks along with documenting and verifying the length of time between the loading point/trailer pickup and the delivery destinations.
- vii. ensure that drivers must notify the dispatcher of any route delays due to weather, traffic and/or rerouting.
- viii. ensure that the management of transporters must perform a documented, periodic, and random verification process to ensure the logs are maintained and conveyance tracking and monitoring procedures are being followed and enforced.

3.5.6 Personnel Security:

In order to secure the international supply chain, the applicant must conduct, as far as possible, security screening of prospective employees to be employed in security sensitive positions, and carry out periodic background checks. With this view, following criteria should be fulfilled by the applicant:

- i. All reasonable precautions must be taken when recruiting new staff to verify that they are not previously convicted of security-related, Customs or other criminal offences.
- ii. Periodic background checks must be conducted on employees working in security sensitive positions.
- iii. Employee identification procedures should require all employees to carry proper identification that uniquely identifies the employee and organisation.
- iv. Procedures to identify, record and deal with unauthorized or unidentified persons, such as photo identification and sign-in registers for visitors etc. must be ensured at all points of entry.
- v. Procedures must be in place to expeditiously remove identification and access to premises and information for employees whose employment is terminated.

3.5.7 Business Partner Security

In order to secure the international supply chain, the applicant must have implemented measures to ensure a clear identification of his business partners. With this view, following criteria should be fulfilled by the applicant:

- i. The applicant must have written and verifiable process, including the capability of financial soundness and compliance with the safety requirement set by the contracts as well as the capability of detection and correction of safety defects, for the selection of business partners.

- ii. For those business partners having AEO certification, the applicant must get those business partners' copies of certification.
- iii. For non-AEO partners, the applicant must get written confirmation of meeting AEO equivalent security criteria. Such business partners must have one of the following written documents demonstrating their compliance with security criteria:
 - a. Contractual document
 - b. A completed self-assessment security questionnaire from the applicant.
 - c. A written statement from the business partner demonstrating their compliance with AEO security criteria.
 - d. Senior business partner officer attesting to compliance.
 - e. Documents from the business partners demonstrating their compliance with an equivalent and accredited security program administered by a foreign Customs authority.
- iv. Periodic reviews of business partner's processes and facilities must be conducted based on risk, and must maintain the security standards required by the applicant.

3.5.8 Security Training and Threat Awareness

In order to secure the international supply chain, the applicant must ensure that its concerned employees actively participate in security awareness programmes. With this view, following criteria should be fulfilled by the applicant:

- i. The applicant should ensure that:
 - a. A threat awareness program is established and maintained for employees to foster awareness of the threat at each point in the supply chain.
 - b. Employees are aware of the procedures the company has in place to address a situation and how to report it.
 - c. Specific training is offered to assist employees in maintaining cargo integrity, recognizing internal conspiracies and protecting access controls.
- ii. Supply chain security training of employees must include the following items:
 - a. Security policy of the company.
 - b. Potential risk to internal security of the company.
 - c. Maintaining cargo security.
 - d. Access control measures of the company.
 - e. Identifying and reporting suspicious cargo and personnel.

- f. Conveyance management and cargo security for conveyance management personnel.
- iii. Records of security training must be maintained and made available for verification by the AEO Programme Team and the Customs.

Section 4

Procedure for issuing AEO certificates

4.1 Acknowledgement of application

Each application will be acknowledged and recorded in an AEO Programme database.

4.2 Return of application:

4.2.1 If application is incomplete or deficient, the applicant will be suitably informed within 30 days of the receipt.

4.2.2 In following cases, the application will **not** be processed until the deficiencies, as indicated, are rectified:

- i. Which is incomplete – This may be resubmitted with the complete information.
- ii. Where the application has not been made by a legal person – This can only be resubmitted by the concerned legal entity.
- iii. Where no responsible person is nominated as the Point of Contact – This can only be resubmitted when the applicant nominates a responsible person who will be the point of contact for the AEO Programme.
- iv. Where the applicant is subject to bankruptcy proceedings at the time the application is made - This may be resubmitted when the applicant becomes solvent.
- v. Where a previously granted AEO status has been revoked -This may not be resubmitted until time period specified in para 5.6.3 has lapsed.

4.3 Rejection of application:

The application shall not be accepted in any of the cases:

- i. Where the applicant is not eligible for grant of AEO status, or
- ii. Where the applicant has been convicted of a serious criminal offence linked to the economic activity of his business in the past, or
- iii. Where the deficiency noticed in the application cannot be remedied.

The information regarding the rejection of such application will be given to the applicant within 30 days of the receipt of the application.

4.4 Processing of application:

4.4.1 On receipt of the complete application and after ensuring that the applicant is eligible to apply, the information and documents submitted by the applicant shall be scrutinized to assess whether or not the eligibility conditions and criteria for granting the AEO certificate as mentioned under the Section 3 of this circular are met by the applicant.

4.4.2 If necessary, further information and/or documents in support of the claim of the applicant may be called for by the AEO Programme Manager or by an officer on his behalf. Such request shall be sent in writing.

4.4.3 The applicant shall submit such information and/or documents within a reasonable time.

4.4.4 Once the eligibility conditions and criteria for granting the AEO certificate as mentioned under the Section 3 of this circular are found to have been met by the applicant to the satisfaction of the AEO Programme Manager, the applicant shall be issued the AEO Tier- One certificate within 30 days of submission of the information and/or documents.

4.4.5 Thereafter, the successful application will be assigned to a specific AEO Programme Team within 15 days to carry out physical verification of the information and documents. The date(s) for physical verification would be decided by the team in consultation with the applicant.

4.4.6 The AEO Programme Team will, within 90 days, visit the business premises for verification of the information and documents provided, in case of applicants for Tier-Two or Tier –Three status. Such visit shall be made on a convenient date after consulting the applicant.

4.4.7. If within 45 days of the date of AEO certificate issued in terms of paragraph 4.3.2, the applicant has not been contacted by the AEO Programme Team, then the applicant should contact the AEO Programme Manager immediately.

4.4.8 During the course of such verification, the applicant for Tier-Two or Tier-Three status should be prepared to answer questions or provide additional information on all aspect of the application to the visiting AEO Programme Team.

4.4.9 Examination of the criteria laid down under Section 3 above shall be carried out for all the premises which are relevant to the customs related activities of the applicant for Tier-Two or Tier-Three status. The examination as well as its results shall be documented by AEO Programme team.

In case several premises of the applicant are run in a similar way by standard systems of record keeping and security etc. there will be no need for the AEO Programme Team to visit all of them. However, if the business of the applicant covers a range of activities or different premises have different method of operating, then it may be necessary for more visits to be made.

4.4.10 The duration of visit/verification would depend on the size of business, number of premises, how they operate etc. The AEO Programme Team will give the applicant for Tier-Two or Tier-Three status an estimate of time required, though this may have to be amended once the verification has commenced. The date(s) for physical verification would be decided by the team in consultation with the applicant.

4.4.11 Where appropriate, in addition to the other requirements detailed earlier, the AEO Programme Team may cover the following:

- (i) Information on Customs matters.
- (ii) Remedial action taken on previous Customs errors, if any.
- (iii) Accounting and logistic systems.
- (iv) Internal controls and procedures.
- (v) Flow of cargo.
- (vi) Use of Customs House Agents.
- (vii) Security of Computers/IT and documents.

- (viii) Financial solvency.
- (ix) Safety and security assessment – premises, cargo, personnel etc.
- (x) Logistic processes.
- (xi) Storage of goods.

4.4.12 The person who is nominated in the application form as point of contact must ordinarily be available unless unforeseeable situation arises. In addition, individuals responsible for specific business activities such as transport, record keeping and security should also be available.

4.4.13 On completion of verification, the AEO Programme Team will prepare their report and make a recommendation to the AEO Programme Manager within 60 days of completion of visits/verification. The contents of report and recommendation can be seen by applicant who will get the opportunity to sign the same, but this will not be a mandatory requirement.

4.4.14 Within 30 days of such recommendation by the AEO Programme Team, the applicant will be suitably informed, including issue of the appropriate AEO certificate for Tier-Two or Tier-Three status, by the AEO Programme Manager.

4.4.15 Where the application for Tier-Two or Tier-Three status is not accepted by the AEO Programme Manager after the verification by the AEO Programme Team, the applicant will be advised of the criteria that have not been met and give the applicant time to adapt procedures to remedy the deficiency. If applicant is unable to make the required changes within the specified time limits, the AEO Programme Manager will issue a decision to reject applicant's AEO application, explaining the reasons for rejection. This decision will be subject to the applicant's right of appeal.

4.4.16 In exceptional cases, the verification may be stopped by consensus between the applicant for Tier-Two or Tier-Three status and the AEO Programme Manager in order for the applicant to provide additional information or to permit minor problems to be addressed. The period of stoppage will normally be no longer than six months and applicant will be informed in writing of the date when the AEO verification will recommence and the revised date by which applicant can expect a decision on his application.

4.5 Certification:

4.5.1. If AEO status is granted, the AEO Programme Manager shall send the Certificate of AEO Status to the applicant in hard copy along with an electronic copy. The Certificate shall bear the 'AEO logo' that may be used where it is appropriate to do so for the business, for example, company stationary, signage on vehicles or other publicity materials. The copyright for the logo is owned by the AEO Programme Manager on behalf of the Indian Customs Administration.

4.5.2. Once the applicant has received the Certificate of AEO Status, it will be activated within 10 days from the date of issue. Following this period, the applicant should enter the certificate number on all Customs documentation to indicate their AEO Status.

4.5.3 It is highly recommended that the applicant should keep the Certificate of AEO status at a safe place and not release the Certificate number to anyone unless required to do so for business purposes. Although the AEO status can be advertised by the applicant, the Certificate number should not be part of their advertisement.

Section 5

Post-Certification Provisions

5.1 Validity of AEO Certificate

The validity of AEO certificate shall be **two years** for AEO (Tier-One), **three years** for AEO (Tier-Two), and **five years** for AEO (Tier-Three).

5.2 Renewal of AEO certificate

5.2.1 The AEOs, if they so desire to continue their AEO status and avail the benefits, must submit their application as stipulated under Section 2 of this circular, before lapse of their validity as per the following:-

AEO status	Time limit for submission of application for renewal before lapse of validity
AEO (Tier-One)	30 days
AEO (Tier-Two)	60 days
AEO (Tier-Three)	90 days

5.2.2 While submitting the application for renewal, the applicant must clearly highlight the changes from the last application.

5.2.3 AEO Programme Manager will consider the renewal applications by following the procedure adopted while granting the fresh AEO status.

5.3 Maintenance of AEO Status:

5.3.1 After obtaining AEO status, the AEO status holder should maintain their eligibility by adhering to the appropriate standards.

5.3.2 The holder of a Certificate of AEO Status is required to notify any significant change in business and processes this may affect the AEO status to the AEO Programme Team. These changes may include the following:

- (i) Change to the legal entity.
- (ii) Change of business name and/or address.
- (iii) Change in the nature of business i.e. manufacturer / exporter etc.
- (iv) Changes to accounting and computer systems.
- (v) Changes to the senior personnel responsible for Customs matters.
- (vi) Addition or deletion of locations or branches involved in international supply chain.

5.3.3 The AEO status holder should notify the AEO Programme Team as soon as the change is known or, at least within 14 days of the change taking place.

5.3.4. If the legal entity changes, the AEO status holder needs to reapply for AEO in the name of new legal entity.

5.3.5. If the AEO status holder makes Customs related errors, they must be reported to the local Customs officers as well as the AEO Programme Team. Errors that are voluntarily disclosed will not impact the AEO status provided that the AEO status holder has:

- (i) Examined the reasons for the errors.
- (ii) Taken appropriate remedial action to prevent recurrence.

5.4 Review of AEO Status:

5.4.1 The AEO Programme Team will review AEO status periodically to ensure continued adherence to the conditions and standards of grant of Certificate of AEO Status. Thus, it is recommended that the AEO status holder should continue to re-assess its compliance with the conditions of certification and act upon any identified problems as soon as they arise. The frequency of such review will be one year.

5.5 Suspension or downgrading of AEO Status:

5.5.1 The AEO Programme Manager may suspend the Certificate of AEO Status in the following cases:

- (i) Where there is a reasonable belief that an act has been perpetrated that is liable to lead to prosecution and /or is linked to a serious infringement of Customs Act, 1962 as mentioned in Para 3.2; or
- (ii) A show cause notice has been issued to them involving fraud, forgery, outright smuggling, clandestine removal of excisable goods or cases where Service Tax has been collected from customers but not deposited to the Government; or
- (iii) Where any serious non-compliance with the conditions or criteria for the Certificate of AEO Status has been detected; or
- (iv) Where the basic license as a Custodian or Custom Broker or Warehouse Operator or as the case may be has been suspended by the competent authority; or
- (v) The ratio of disputed duty demanded or drawback demanded or sought to be denied in show cause notices issued under the Customs Act, 1962 during the last three financial years to the total duty paid or drawback availed, as the case may be, during the said period exceeds five percent.

5.5.2 The AEO Programme Manager may, in the case of an importer or an exporter, downgrade the status of an AEO (Tier-Three) to the AEO (Tier-Two) in the following cases:

- (i) Where any show cause notice has been issued alleging infringement of Customs/Central Excise/Service Tax law, other than those covered under para 5.5.1; or
- (ii) Where any non-compliance with the conditions or criteria for the Certificate of AEO Status, which is not serious, is detected; or
- (iii) Where any of its business partners is found to be not a holder of AEO (Tier-Two) certificate.

5.5.3 The AEO Programme Manager may, in the case of an importer or an exporter, downgrade the status of an AEO (Tier-Two) to the AEO (Tier-one) in the following cases:

- (i) Where any show cause notice has been issued alleging infringement of Customs/Central Excise/Service Tax law, other than those covered under para 5.5.1; or

Where any non-compliance with the conditions or criteria for the Certificate of AEO Status, which is not serious, is detected;

5.6 Restoration of suspended/ downgraded AEO Status:

5.6.1 AEO status which has been suspended on account of the AEO having been served a show cause notice involving fraud, forgery, outright smuggling, clandestine removal of excisable goods or cases where Service Tax has been collected from customers but not deposited to the Government may be restored as follows:

- (i) Restored after 3 months if the entity pays the duty demanded with interest and 25% penalty within 30 days of the Show Cause Notice or if the entity's application is allowed to be proceeded with by the Settlement Commission.
- (ii) Restored after 6 months if the entity pays the duty demanded with interest.

5.6.2 AEO status which has been suspended on account of detection of any serious non-compliance with the conditions or criteria for the Certificate of AEO Status may be restored if the AEO holder takes the necessary remedial measures to the satisfaction of the AEO Programme Manager within 30 days of suspension.

5.6.3 AEO status which has been suspended on account of suspension of the basic license as a Custodian or Custom Broker or Warehouse Operator may be restored when such suspension is revoked by the competent authority.

5.6.4 AEO status which has been suspended on account of the ratio of disputed duty demanded or drawback demanded or sought to be denied in SCNs issued under the Customs Act, 1962 during the last three financial years to the total duty paid or drawback availed, as the case may be, during the said period exceeds five percent may be restored if such ratio come back within the limit of five percent.

5.6.5 In case an AEO status has been downgraded, it shall be open to the entity to apply again for higher status as and when the eligibility conditions and criterion are met by it. AEO Programme Manager will consider such applications by following the procedure adopted while granting the fresh AEO status.

5.7 Revocation of AEO Status:

5.6.1 In following circumstances, the Certificate of AEO Status will be revoked:

- (i) Where the Certificate of AEO Status is already suspended and the AEO holder fails to take the remedial measure within 30 days to have the suspension withdrawn.
- (ii) Wherein prosecution has been launched or is being contemplated against the applicant or its senior management.
- (iii) Where the AEO status holder requests the authorization be revoked.

5.6.2 Prior to any decision to revoke authorization, the applicant will be notified. Revocation is applied from the day following the authorization holder being notified.

5.6.3 In case the AEO status is revoked, the AEO (Tier-One) and AEO (Tier-Two) status holder will not be entitled to reapply for the AEO certificate for a period of one year from the date of revocation.

In case the AEO status is revoked, the AEO (Tier-Three) status holder will not be entitled to reapply for the AEO certificate for a period of two years from the date of revocation.
