



**CONSULTANCY TO UNDERTAKE ANALYSIS OF
ISSUES AFFECTING UPTAKE OF AUTHORISED
ECONOMIC OPERATOR SCHEME BY
BUSINESSES IN THE EAST AFRICAN
COMMUNITY (EAC)**

FINAL REPORT

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EXECUTIVE SUMMARY

This analysis followed a request by the Federation of East African Freight Forwarders Associations (FEAFFA) to The Commonwealth. FEAFFA intends to establish the challenges that have inhibited the uptake of the AEO scheme; increase awareness of the AEO program focusing on its benefits and strengthen the capacity of the private sector players to meet requirements for AEO qualification. This analysis has the following objectives:

1. Examine the issues that inhibit the uptake of the AEO scheme in the East African Community.
2. Establish the composition of the AEO scheme (legal and regulatory framework, procedures, compliance, and supply chain security requirements), the successes, gaps, and draw policy recommendations that would enhance the growth of the AEO program across all stakeholders.
3. Develop policy briefs that highlight the outcome of the study and possible interventions necessary.

The analysis was carried out with a combination of primary and secondary data. The primary data was obtained directly from stakeholders through interviews, surveys, and consultations. The secondary data was gathered from reports on the scheme's performance and related material on the prevailing situation among the various trade facilitation actors.

The majority of the respondents indicated moderate awareness of the AEO program at both national and regional levels, with the latter being slightly more substantial than at the national level. Respondents from Uganda and Rwanda considered the awareness in their countries higher than at the regional level. Many explanations were given for the low awareness at both national and regional levels. Those explanations ranged from resource constraints, limited training materials, lack of will-to-poor collaborations. In all countries, though, there was a clear testimony of desire to improve the situation. The higher numbers of AEOs in Rwanda and Uganda are evidence of the kind of results that raising awareness can deliver.

There are minimal awareness campaigns in all the countries. Many operators are not aware of the scheme—lack of adequate sensitization leading to inadequate fulfilment of the accruing benefits. Limited awareness has resulted in fewer operators applying for authorization.

The EAC has provided leadership in the administration of the AEO program in the region. Together with WCO and other partners, the Secretariat has sustained efforts to develop and maintain the Programme. Economic operators applauded the partnership with the EAC secretariat and reported fairness in the delivery of services by the scheme, more so in terms of flexibility and efficiency. Some areas are, however, considered wanting. This is especially the case with uniformity issues across the countries, support to MSMEs, efforts for capacity building, and transparency in assessing an application.

There is a conspicuous absence of MSMEs in the scheme. They lack the awareness and financial capacity to meet AEO eligibility requirements. The customs staff should be educated on how to deal with the MSMEs. Moreover, there is a need to review the design of the scheme because, as it stands now, it is not suitable to involve MSMEs in terms of criteria and benefits; Some MSMEs do not meet the criteria when wishing to join the scheme; additionally, the basket of benefits proposed is very limited as they do not comply with the reality on the ground depending on the socio-economic situation of each EAC Partner State.

Most AEOs remain compliant. Some get compromised by the behaviour of their clients and other factors beyond their control. This is especially the case with MSME operators. Frequent

system failure and downtimes often cause delays in operators receiving required data/information. That causes some delays on some compliance issues.

The major legal challenge has to do with the lack of specific recognition of the AEO programme by the customs acts of all the EAC member states. In the absence of legal provisions, the benefits of the scheme are granted administratively with no legal recourse for the operators. Moreover, the operators are entirely regulated by the customs administration. Lack of self-regulation has stifled faster development of professionalism with the sector. It also exposes the operators to extraneous liabilities which could be avoided if they had self-regulation. That is especially critical with regard to security matters where the transportation link of the chain remains most vulnerable. It will be important for the EAC Customs Management Act to categorically acknowledge the AEO scheme and the inherent benefits. In addition, legislation to be enacted to establish self-regulation for the operators.

The analysis has revealed some vital lessons which have in several ways informed the recommendations proposed. The lessons include: (a) Private sector involvement is critical. Higher awareness and uptake will be achieved when the private sector plays a larger role. Enlisted AEOs receiving benefits will be better-placed ambassadors to sell the Programme. (b) Need for harmonization and simplification. There is a need to harmonize the processes of application, risk assessment criteria in the accreditation process across the region. (c) Provide benefits. The scheme is good when it walks the talk. The Program's fate rests with the assurance that the rigor of compliance will be rewarded by worthy benefits all the time and in all the countries, including those with whom the region has Mutual Recognition Agreements (MRAs). (d) Capacity building. Continuous training and building capacity are required for Customs and all operators. The customs authorities should make sure that the staff fully understand the scheme and its intended purpose, making them attend to clients with more courtesy and make it attractive to more businesses.

The AEO program is a game-changer in improving efficiency once it gets more substantially embraced by the respective stakeholders (both the operators and implementers). It has improved professionalism in doing business and will drastically reduce cost of logistics in the supply chain and the overall cost of doing business in the region, thus increasing competitiveness. AEO has tremendous potential to improve trade facilitation, but that will only be realized if the scheme is managed with more efficiency and transparency. Concerted efforts are needed through more private sector involvement (including MSMEs) in management and more dedication and commitment of Customs Administrations' management.

CHAPTER 1: INTRODUCTION

Introduction & background

Authorized Economic Operator (AEO) is defined in the WCO SAFE Framework of Standards as a party involved in the international movement of goods, in whatever function, that has been approved by, or on behalf of, a national Customs administration as complying with WCO or equivalent supply chain security standards. The Programme was introduced by the World Customs Organization (WCO) SAFE Framework of Standards to secure and facilitate global trade. It is widely acknowledged as a key driver for a solid Customs-Business Partnership, a secure, transparent, and predictable trading environment, and, in a wider context, enhanced economic prosperity¹. The AEO programs have taken root in most countries, especially the OECD ones. A study by Asia-Pacific Economic Cooperation (APEC) on best practice identified the characteristics below:

- Stakeholder involvement and communication/understanding of benefits;
- Participation by small and medium enterprises in AEO programs;
- Training and capacity building;
- Mutual recognition agreements among economies; and
- Other government agency inclusion.

Economic operators are categorized according to:

- Exporters; Importers;
- Freight forwarders;
- Customs Agents;
- Bonded warehouse owners;
- Manufacturers;
- Transporters;
- Terminal operators.

In East Africa, implementation of the Programme commenced, with a pilot, in 2008. Overall strategic guidance is provided by the East African Community (EAC) secretariat. National AEO coordinators in each country manage the processes in their respective territories. The coordinators are staff from revenue authorities/customs administration. The EAC secretariat developed a comprehensive standard operating procedure (SOP) that spells out application, validation, approval, and post-authorization management details.

Once authorized, the economic operators are expected to enjoy a wide range of benefits which include:

For Importers/Exporters/Manufacturers

- Automatic passing of declaration
- No physical examination of goods, except for random or risk-based interventions
- Electronic Cargo Tracking System (ECTS) requirement waiver where applicable
- Expedited payment of refund claim
- Reduced Customs security where applicable
- Priority to participate in Customs initiatives

For Customs Agents/Freight Forwarders

- Guaranteed renewal of Customs agent's license
- Priority to participate in Customs initiatives

¹ WCO AEO Compendium.

- Priority treatment in cargo clearance chain
- Waiver of movement bond requirements for AEO

For transporters

- Guaranteed renewal of transit goods license and any other licenses issued by Customs
- Exemption from the mandatory use of Customs Electronic Cargo Tracking System
- Priority clearance at entry and exit points

For bonded warehouse operators

- Self-management of bonded warehouse
- Guaranteed renewal of Warehouse Operator's license
- Reduced Customs security wherever applicable

This analysis followed a request by the Federation of East African Freight Forwarders Associations (FEAFFA) to The Commonwealth. FEAFFA intends to establish the challenges that have inhibited the uptake of the AEO scheme; increase awareness of the AEO program focusing on its benefits and strengthen the capacity of the private sector players to meet requirements for AEO qualification. This analysis has the following objectives:

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3. Develop policy briefs that highlight the outcome of the study and possible interventions necessary.

Methodology

The analysis was carried out with a combination of primary and secondary data. The primary data was obtained directly from stakeholders through interviews, surveys, and consultations. Secondary data was gathered from reports on the performance of the scheme and related material on the prevailing situation among the various trade facilitation actors. The literature review provided vital information on the trends in the AEO schemes elsewhere globally; the constraints that have already been identified; measures taken to resolve the issues and develop the clients' capacity. The experiences from elsewhere will guide efforts to improve the EAC scheme.

For primary data, the main tool used was a questionnaire mainly due to limitations on transport and physical meetings. Some informants were also contacted and interviewed on the telephone. In total, 27 responses were received from a total of 65 questionnaires sent. The responses were from the following categories:

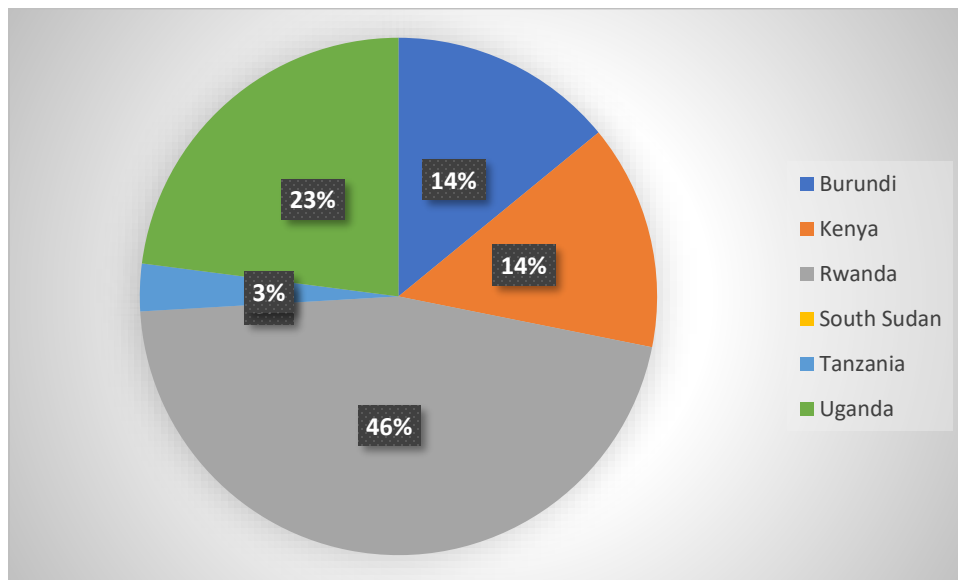
| | |
|---------------------------|-----------|
| National AEO coordinators | 5 |
| FEAFFA officials | 5 |
| AEOs | 6 |
| Non-AEOs | 13 |
| Total | 29 |

CHAPTER 2: SITUATION ANALYSIS AND FINDINGS

Background

As of December 2020, the EAC AEO program had 135, almost half from Rwanda (62), followed by Uganda with 31, Kenya and Burundi with 19 each, and Tanzania with only 4. At the time of the study, two AEOs had been de-authorized.

Fig 1: Proportionate level of authorization by member countries

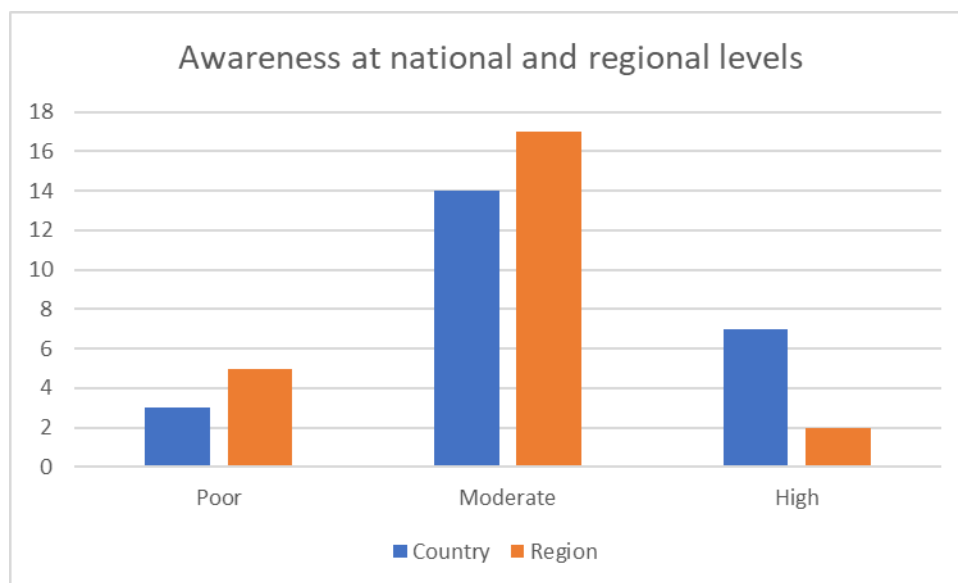


The majority of the AEOs are categorized as importers and clearing agents. Several of them are registered in various categories.

Awareness

The majority of the respondents indicated moderate awareness of the AEO program at both national and regional levels, with the latter being slightly stronger than at the national level. Respondents from Uganda and Rwanda considered the awareness in their countries higher than at the regional level. National AEO coordinators indicated higher national awareness than at the regional level. The coordinators in Burundi, Rwanda, and Uganda were most enthusiastic about the levels of awareness in their countries and the strength of their efforts. Though indicating higher national awareness, Kenya's customs administration confessed that they have only put limited efforts into the process. In Tanzania, there was outright acceptance of failure to raise awareness of the scheme deliberately.

Fig 2: Perceptions of awareness at national and regional levels



Some countries have developed schedules for training and awareness based on the EAC's Visibility and Communications plan. Where the activities are implemented, the awareness is high. Uganda and Rwanda have rolled out awareness plans for the sustainability of the scheme with regular sensitization sessions. In Rwanda, there exists a Technical Working Group composed of AEOs' representatives and Government Regulatory Agencies (Border Agencies). The meetings take place on a semester basis. In the meetings, the parties discuss AEO issues and agree on appropriate solutions. In addition, AEO documents are published on Rwanda Revenue Authority (RRA) website as awareness to the business community on the benefits of AEO and guidance on how to join the scheme. The Uganda Revenue Authority (URA) engages stakeholders regularly and carries out mapping exercises to identify potential clients and their needs.

In other countries, the efforts to create awareness are not so elaborate. In Kenya, for instance, awareness is not deliberately planned for. Instead, Taxpayer Services Sections undertakes the initiatives of sensitizing the taxpayers on the various tax Programmes in the country. A slot is given to the AEO Section to carry out sensitization on the Programme during these sessions.

Factors Limiting Awareness

Many explanations were given for the low awareness at both national and regional levels. Those explanations ranged from resource constraints, limited training materials, lack of will to poor collaborations. In all countries, though, there was a clear testimony of desire to improve the situation. The higher numbers of AEOs in Rwanda and Uganda are evidence of the kind of results that raising awareness can deliver.

Without a doubt, efforts to create awareness have been inadequate. In all the EAC countries (South Sudan was excluded), inadequate budget to support the sensitization and awareness is the most common reason for limited sensitization and awareness. There is a lack of budget allocation to finance awareness creation and other activities that go with the sensitization sessions or reach a wider audience. While Rwanda is exemplary in the awareness program, there are also misgivings that the activities tend to be confined to only a small group, mainly clearing agents.

There is also a shortage of staff to carry out the sensitization. In some cases, the customs administration has not dedicated staff for such work. In contrast, in others (like the case of Tanzania), it was reported that most of the staff were new, had not been with the organization for long, and, therefore, lacked the knowledge to share with economic operators. They needed sensitization themselves.

In some cases, there is awareness, but lack of willingness/interest to join the scheme causes apathy and makes those in a position to spread the message shy away. This is mainly on account of a bad experience by AEOs. Some FEAFFA members are aware of the scheme, but not having obtained the advantages they would have hoped for, they hold back from talking about it. In Uganda, AEOs were at the forefront (at some time) of sharing their experiences and convincing others to join the scheme.

A culture of suspicion between customs and the private sector has also contributed to low awareness. Lack of trust was mentioned where the private sector is apprehensive of the customs officers, and they, in turn, suspect the private sector of underreporting their cargo. Consequently, the two parties fail to reach out to each other, even to share information on programs such as the AEO. That situation compromises collaboration between the public and private sectors, and they lose the opportunity to work together. It is also alleged that some agencies have not been sensitized about the AEO program: they refuse to recognize AEOs.

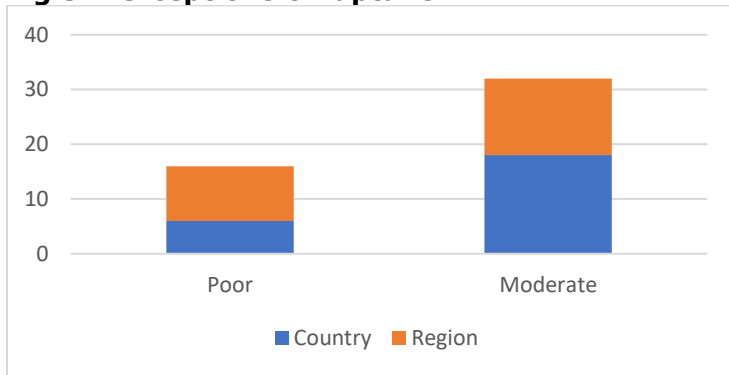
Poor communication fails to reach the right audience or results in the message being delivered late. Some economic operators said that they would learn of workshops after they had happened because they were left out, or at times the sessions were planned hurriedly. Information has in some cases not been disseminated in a way to inform the general group of economic operators using all media platforms. Moreover, it was claimed that some customs staff fail to explain well the relevance of the scheme to the private sector, especially MSMEs.

The most unfortunate explanation given was the fear of loss of revenue by customs officers. Perhaps due to a lack of understanding about the scheme, one country with a very low number of authorized economic operators reported scepticism about the scheme. It was feared that if customs clearing were fast-tracked with businesses subjected to minimal customs checks, they would cheat and cause the government to lose revenue. On their part, some operators accused customs of wanting to persist with the old procedures so that they can find chances to seek bribes. They, therefore, do not want the operators to know about the Programme, they said. These allegations add to the suspicion and distrust mentioned above, which are subjects of ethics and integrity.

The situation regarding uptake of the scheme

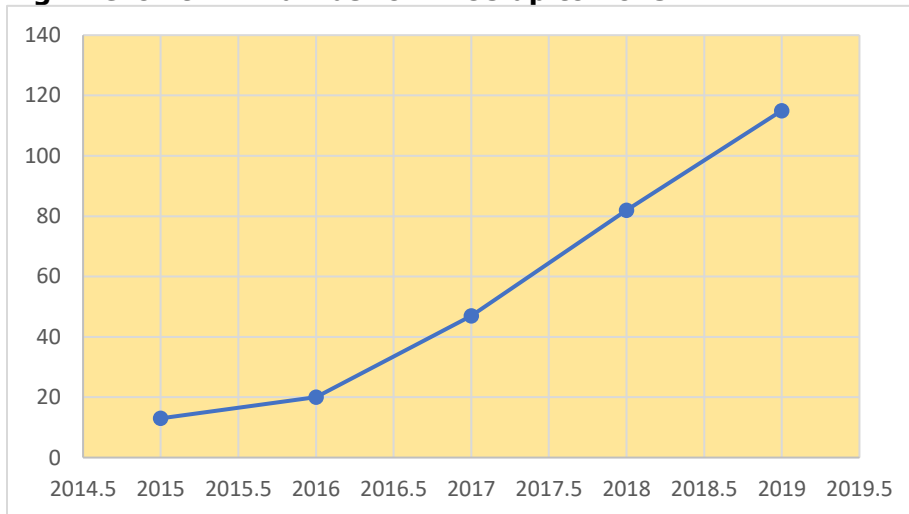
With an average of 23 AEOs per country (excluding South Sudan), the Programme has not picked up as expected. The customs administrations, as well as the business community, acknowledge that fact. There are varying views on how it has performed, with more respondents indicating that the uptake at a regional level has been better than within countries. There was no impression of a high uptake, perhaps due to the low numbers, except for Rwanda.

Fig 3: Perceptions on uptake



Rwanda and Uganda stand out with much higher numbers than the rest. Public awareness and focused efforts have borne fruits for both countries. Tanzania lags far behind, and that has not happened by chance. The administration is concerned that if more operators join, there will be a drastic fall in revenues. The growth in authorization has been fairly gradual from inception, as shown by the graph below.

Fig 4: Growth in Number of AEOs up to 2019



Source: EAC list of regional AEOs.

The uptake has been averaging 27 economic operators authorized each year between 2015 and 2019, slightly over 5 per country. AEOs get value for their money because they enjoy a set of unique benefits not given by any other process in Customs. The status itself is a huge benefit. Companies that are accredited have an improved image and a competitive edge against unaccredited companies. Some AEOs reported enjoying tremendous benefits and obtaining a competitive edge by getting accreditation. These champions provide role models and can be showcased to demonstrate the importance of joining the scheme.

An example is ESL Forwarders, who testified to enjoy privileged relations with key government partner agencies (GPA). The firm reported that by enrolling in the AEO program, there is a high trust between Kenya Revenue Authority (KRA) and AEO Customs agents and accredited shippers. Goods are cleared on the green channel because of transparency and the trust of AEO Agents and AEO shippers. The verification process is minimized to AEO requirements, saving shippers and agents' time, positively impacting their business. Another large AEO explained how they use the accreditation as a marketing tool to acquire more clients, which compensates them even when they do not receive full value from Customs Administrations. Other cost savings reported include Kenya Port Authority (KPA) containers stripping/ verification cost and shipping line container demurrage charges.

However, a clear pattern emerged that majority of the operators currently reporting benefits from the AEO program are by default large and relatively large operators. Smaller operators expressed a feeling of low value for money. Given the potential benefits and the high number of economic operators in the region, the figure could be higher. Several reasons explain the low progress.

Factors holding back uptake of the scheme

There are limited awareness campaigns in all the countries. Many operators are not aware of the scheme. Lack of adequate sensitization leading to inadequate fulfilment of the accruing benefits. Limited awareness has resulted in fewer operators applying for authorization.

Cost of authorization. Most of the firms that would be interested in the AEO program are hampered by huge capacity constraints. The process requires investing in IT infrastructure and also demands a high level of integrity in the documentation. For many operators, these would raise their operational costs and lower their cost competitiveness. They view the process as too demanding. This is particularly the case with MSME operators who see the Programme as specifically meant for large players and deliberately meant to exclude them.

Value for money. Several operators remarked that the accreditation process is too rigorous for the few benefits they receive. An example commonly cited was licensing, where clearing and forwarding companies said that they are required to submit all requirements every year to be licensed despite being authorized economic operators. The failure to honour the promises made to AEOs and lack of consistency in providing benefits have been major deterrents. Economic operators perceive a lot of bureaucracy in implementation and therefore find the process not worth the trouble, especially when procedures in the industry remain convoluted with many cases of physical examination of goods being undertaken regardless of AEO status. Subjecting AEOs to the container/cargo verification process defeats the purpose. In Tanzania, the only guaranteed benefit is an ECTS (abbrev) seal.

Lack of harmony and standardized application between countries. The level of offering AEO benefits to AEO companies is not the same in all EAC Partner States. This hinders the scheme awareness when existing AEOs present dissatisfaction with the treatment they receive from some EAC countries. There also seems to be some misconception about the regional scheme and other national interventions. Tanzania is a case in point where the existence of a national program similar to the AEO was claimed to be in place. The lack of harmony extends to the private sector. Companies with several economic operations sometimes opt only to obtain authorization while remaining non-AEO in others, for example, being an AEO on clearing. In contrast, the transport operations are not compliant. The partiality complicates treatment by customs.

Fear of exposure. One major factor is compliance levels and the audits that need to be carried out yearly on AEOs. Most of the players, especially clearing agents, were hesitant to defer the

audits. Consequently, they feel more comfortable with the routine. The matter gets even more complicated due to the apparent lack of knowledge and comfort by customs concerning security. Whereas compliance is fairly straightforward in terms of what is needed, the situation is different when it comes to security at the national and international levels. There are sentiments that the EAC regional AEO program has been constructed with a huge focus on compliance, while the international understanding of AEO addresses both compliance and security concerns. One customs administration, for instance, reported that they fail to provide some benefits because such would conflict with existing laws in their country.

Lack of integrity and prevalence of corruption. Some customs administrations constantly suspect the operators of dishonesty and therefore insist on thoroughly checking their cargo. On the other hand, the operators suspect that the customs find opportunities for bribery in the extensive scrutiny of goods.

Lack of aftercare. Operators, especially smaller and medium ones, require follow-up support after they obtain authorization to maintain the standards reached. Unfortunately, there are hardly dedicated teams to handle AEO processes to underpin such follow-ups and the necessary training and coaching.

Factors on the management framework

The EAC has provided leadership in the administration of the AEO program in the region. Together with WCO and other partners, the Secretariat has sustained efforts to develop and sustain the Programme. The observation² below captures the mood and efforts made so far:

"EAC regional experts have worked on strengthening the foundations of the Regional AEO program as well as expanding the number of AEOs across the region. So far, with WCO technical and advisory support, the EAC team has been able to:

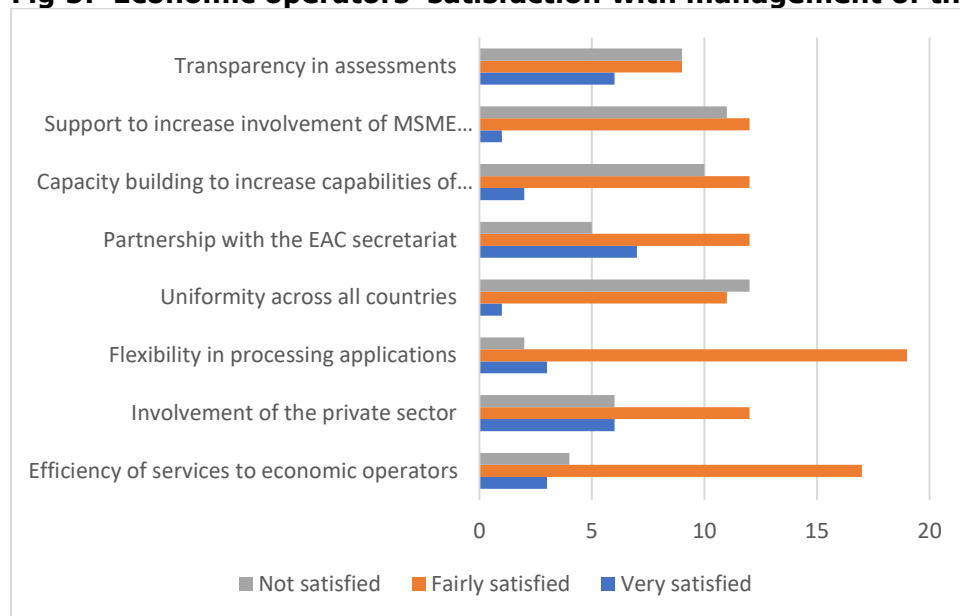
- review and update the Programme in terms of its benefits and criteria, aligning them with the EAC's regulatory framework and taking into account the establishment of the Single Customs Territory (SCT).
- compile a regional Manual of Standard Operating Procedures that detail the AEO validation process and post-validation management;
- establish a regional AEO Working Group, comprising Customs and trade representatives;
- adopt a Regional AEO identifier code, enabling AEOs to be recognized by Customs' information technology (IT) systems;
- draft a Communication Visibility Plan to enhance awareness about the Programme;
- initiate work on an AEO validation course, which will be based on WCO standards and integrated into the EAC Customs training curriculum as well as national training curricula;
- develop a strategic 'dashboard' to monitor the health and performance of the Programme."

Economic operators applauded the partnership with the EAC secretariat and reported fairness in the delivery of services by the scheme, more so in terms of flexibility and efficiency. Some areas are, however, considered wanting. This is especially the case with uniformity issues across the countries, support to MSMEs, efforts for capacity building, and transparency in

² EAC Regional AEO programme: a model for regional integration and trade facilitation: By Richard Chopra, WCO-Sweden Programme Director, and Martin Ojok, EAC Regional Project Manager.

assessing an application. Fig 5 shows the results of perceptions about effectiveness in the administrative framework of the Programme.

Fig 5: Economic operators’ satisfaction with management of the AEO programme.



There is widespread discomfort with the apparent lack of uniformity in evaluating applications and providing benefits to different partner states. While Rwanda and Uganda report that all due benefits are provided as long as the operator is compliant, Kenya and Burundi referred to some legal challenges that have so far limited benefits in some aspects. The respondents did not refer to any specific sections of the law. The general issues pointed out were that the economic operators are regulated by the Customs Acts whereas they would prefer their own separate law. It was also pointed out that the various Customs Acts do not make reference to the AEO scheme thus leaving it as largely an administrative issue where the economic operators do not have any legal recourse to seek redress when benefits are provided. In Tanzania, it was reported that there is a huge concern over the possibility of revenue loss if all the benefits are given. These disconnects are a major concern to the economic operators and a constant hindrance to higher uptake of the scheme. It should be noted, though, that except for Tanzania, large operators expressed satisfaction with the provision of benefits, perhaps giving credence to the allegation that the Programme favours the big players. Others reported receiving only some benefits, the minimum requirements under the Trade Facilitation Agreement (TFA) that all businesses should ordinarily be entitled to.

While the standard operating procedures are spelled out, the business community expresses discontent with how applications are assessed. There were allegations that some countries are more flexible and even worse, that some companies get favoured and fast-tracked. Those are challenging allegations to prove. The issue, though, is the need to ring-fence objectivity.

Capacity building was an area of major concern, except for large operators, who expressed sentiments about their smaller compatriots. With the stringent requirements, operators beg for support in building capacity to meet and maintain the standards set. The bulk of the needed capacity can be provided through training. However, there would also be a need for investment in IT infrastructure (capacity is still needed in the IT knowledge and application). FEAFFA is well equipped to provide capacity building and training regarding the scheme,

conduct sensitization campaigns on the scheme, and mobilize SMEs to participate in the scheme. The Federation has a team of well-dedicated staff with knowledge of the industry and scheme. The trained staff on security and safety matters within the FEAFFA fraternity is quite okay when it comes to matters on dealing with AEO matters. Management of Risk matters is well articulated on documentation procedures and accuracy of the information, and traceability of accounting records. A major challenge is that since Customs Administration carries out the management of AEO, FEAFFA may lack the appropriate entry points to intervene. Besides, the Federation can only support its members. The Customs administrations have the extensive capacity with skills, tools, and processes to manage and coordinate the AEO program and make it robust. However, staff in these areas need to be highly professional, possess a lot of knowledge of the Customs core functions, and understand the changing role of Customs to include Security and Supply Chain Management. They need training in Risk Management, Data Analytics, Valuation and Classification, Supply Chain Security, and Customer care. Effective capacity building will require a good partnership with the business community. There should be bigger room for the private sector in the administration of the scheme.

Keeping track of the scheme requires steady monitoring, which will need the private sector's involvement. There is no structured forum for tri-partite engagement between EAC, National AEO coordinators, and the private sector. A loose arrangement is in place, but it is neither clearly structured nor fully functional. The meetings have been ad hoc, and COVID-19 has made that even worse.

A deeper interrogation of the legal and administrative a framework obtained the following findings from economic operators and AEO coordinators:

- 1. Challenges reported by economic operators in applying for authorisation.**
 - The length of the questionnaire is a regular complaint. Applicants find it rigorous as it combines all the categories. If it was automated, then similar sections could be auto populated but currently the applicant has to manually complete all the sections one at a time.
 - Applicants need some pre-training prior to completing the forms and submission. Auditors should take them through the process.
 - In Rwanda and Uganda economic operators are regularly taken through workshops where the requirements are explained. They are thus able to do self-readiness assessment and determine if they are ready to carry on with the process. Some proceed with applications; some drop off while others are put on the improvement plan. Of those taken through the readiness assessment and opt to proceed experience has shown success rates of about 65% with waiting periods ranging from 2 months to 2 years.
 - The demand for trading partners to be complaint is a major hurdle. It makes it easier for multinationals trading with each other while smaller operators have difficulties ensuring that those, they transact with meet the requirements.
 - Mandatory inspections by the various Government institutions make some operators, especially MSMEs jittery.
 - Regular Audits for tax and respective integrity issues.
 - E-Compliance and conformity of internal processes and the respective certifications.
 - Close monitoring of the business history and records of the organizations/enterprises.

- 2. Areas in which AEOs seem to have challenges in complying.**

- Record keeping. AEOs are subjected to annual audits by customs administration. Generally, audits send fear to those being audited. They get concerned of being caught with some issues that might have happened inadvertently.
 - In Rwanda there is a threshold tax invoicing amount set at RWF118,000 for customs agents. At times they get customers paying much less yet they are obliged.
 - Tax liabilities on the part of the clients of AEOs.
3. *Issues pertaining to supply chain security.*
- The major issue is with transporters. There is high exposure at the trucking stage of the supply chain. The drivers are often not privy to the details of their cargo. They lack the sensitivities and awareness of possible consequences if something goes wrong with the cargo. Their expertise is confined to trucking. That is different from freight forwarders who are licensed and get severely punished if anything goes wrong hence, they are more cautious and professional. Similarly, customs bonded warehouses are secure because the customs system controls the inventory movements. In some instances, the cargo is subjected to random to mitigate against importation of prohibited goods.
 - There have been allegations of police connivance with criminals where trucks get ambushed, and cargo stolen. The police would be aware of the cargo content having perused the documents. In such cases (again allegations) the drivers would bear the blunt of the blame even though they may not have been privy to the nature and value of the cargo contents. This risk remains because transporters are not at the same level as the freight forwarders in terms of training, licensing and the punitive measures when anything goes wrong. There have been calls for transporters associations to be brought on board so as to raise the level of integrity, knowledge and collaborations.
4. *Legal issues of concern in the implementation of the scheme.*
- The operators are regulated by the customs authorities. In Kenya, Uganda, Rwanda and Tanzania the businesses decried regulations that hurt their operations. Two issues were cited as having most impact: renewal of operating licenses and being held liable for offences committed by the clients. The renewal of licenses is not always automatic and the time for re-issuance is not guaranteed. In Rwanda operators (freight forwarders) reported having to halt their businesses temporarily at times waiting for the license to be renewed. The second concern on liabilities has wider consequences. The operators are held liable for wrongs committed by their clients including such things as failure by importers to pay their full tax obligations. Other crimes pertain to nature of the goods ferried where in circumstances where the goods are found to differ from the paperwork then the freight forwarder are held liable. The economic operators have called for self-regulation to resolve these matters. They aver that self-regulation would increase professionalism among operators with positive implications on both compliance and security of the supply chain.
 - Lack of specific legislation for freight forwarders. The sector is pivotal in the supply chain, but it does not have a specific law to regulate it. In all the EAC countries freight forwarders are governed by the Customs Acts of the respective states.
 - The EAC Customs Management Act is not fully domesticated in some countries e.g., Tanzania. The AEO is governed by the Act and therefore enforcement can be challenging if some sections are not in tandem.
 - Frequent amendments to the various Customs Acts. All the EAC countries experience rapid changes to their customs legislation. The changes at times result in some respects that conflict with the AEO regulations.
 - Although not a legal issue, one matter raised by three (3) of the EAC countries (Kenya, Rwanda, and Tanzania) is pressure by central government to meet set revenue

collection targets. When the revenue authorities find themselves falling short of the targets, they tighten the regulations to kind of overlook the AEO status.

- Protectionism. The regulatory environments in the EAC region have pockets of trade protectionism in some dimensions, which limit operations and put hurdles that have implications for the operation of the AEO scheme. Examples include: requirement by Tanzania Revenue Authority to Rwandan transporters to use two customs bonds on Northern-Central Corridor; price regulation as well as an exemption from transit tolls for locally registered vehicles only in Kenya; i.e., road tolls are applied in a way that discriminates against foreign service providers.
- Vested interests both by individuals in the government and also by governments themselves.
- The Customs laws/regulations do not specifically mention/provide for the AEO programme and related benefits/rewards. All the benefits are therefore administrative in nature and difficult to enforce.
- The operations of other cross-border regulatory agencies. They only operate in major stations/borders and they do not offer 24/7 operations. Unlike customs who remain open 24/7 other government agencies close earlier (most usually close latest 6 p.m.). Consequently, AEOs get delayed and miss the preferential treatment.

5. *Areas where member states differ in their implementation of the AEO scheme.*

Peer review undertaken by member states showed high levels of similarities in the way the scheme is managed across the region. Some differences were, however, noted while others have been reported by the economic operators. The differences are:

- Tanzania belongs to SADC while the other members belong to COMESA. There are instances where the customs provisions differ and those affect AEO.
- Tanzania tax officials do not often get leave to attend AEO training sessions. They therefore lag behind in awareness of the scheme.
- Judicial processes in the countries differ. Some (e.g., Rwanda) are stricter with offenders and speedily dispense judgement/punishment while others (e.g., Kenya) take long and therefore result in impunity among operators and regulators.
- Peer validation showed high levels of similarities in the way the scheme is managed across the region.
- Partner states have different operating applications, which have made it difficult to get the AEO identifier configured in all the revenue administrators' systems. There is need for ease of interface of the revenue authorities. That can be achieved by having one programme for the identifier other than each partner state developing their own separately. The EAC secretariat can spearhead the process at regional level as a way of nurturing goodwill among partner states to promote the AEO programme.
- There are also differences in the award of benefits. Some examples cited include:
 - In Kenya the customs agents and freight forwarders regularly get waiver of movement bond requirements. That is not the case in Rwanda where the waiver is never granted.
 - Uganda is the only place where all benefits are provided as long as the operator is fully compliant.
 - The waiver on Electronic Cargo Tracking System (ECST) is always granted in Burundi, Rwanda, Uganda, and Tanzania but rarely in Kenya.
 - Tanzania grants Rwanda, Uganda and Burundi automatic passing of their declarations but the same is not provided to AEOs from Kenya.

Issues hindering the participation of medium and small enterprises (MSMEs)

1. The MSMEs need more investments to comply with AEO eligibility requirements, including security and safety. The cost of the required improvements/upgrading systems is beyond many of them without clear benefits confirmed. Their operations are small, and so are their customers. They lack economies of scale and have little hope of recovering investment from lower unit costs—the requirement for trading partners to be compliant presents additional hurdles. With the current configuration of the scheme, only large operators can afford what is needed.
2. Lack of motivation and guidance. Not much has been done to facilitate SMEs. There have been limited efforts to create awareness, sensitization, and support to overcome their capacity deficits. The lack of information/awareness keeps them not only ignorant but feeling excluded. Their management practice falls short of the desired professionalism. Many of them do not have adequate internal controls to meet the compliance levels expected by the scheme.
3. Too much red tape. The process is agonizing for SMEs, which are already stretched for resources, especially personnel. They can hardly afford to commit staff to the lengthy processes. Lacking accurate information from customs administrators, expected to cope with the long waiting periods before authorization, and uncertainty whether the benefits will be provided, MSMEs prefer to stay out.
4. Unfriendly treatment by Customs. MSMEs reported that they are poorly treated by customs, often with suspicion. They face difficulties in obtaining the necessary information about the scheme. It occurs to them that Customs favour big operators with large and high volumes who pay/contribute more to revenues collected, unlike MSMEs.
5. Poor management practice. The majority of MSMEs have a prevailing culture of not being methodical. They do not have a tradition of accurate recording keeping and documentation. Their procedures are not regularized. They also tend to be secretive and fear that transparency might expose them to unfair taxation.

Implications of the COVID-19 pandemic on the AEO scheme

1. Delays in the validation of AEO applications due to lockdowns and social distancing measures. Border clearance was also affected as only a small number of officers has been left to man Customs administration. Meetings for awareness and sensitization were deferred.
2. New measures increased cost of doing business. The introduction of new preventive procedures such as mandatory testing, quarantines, and relay driving increased costs. Moreover, trans-shipment meant that cargo and handling processes are only handled by AEOs up to a certain border and may have to be surrendered to a non-AEO company; transporter clearing agent, etc., in the receiving company, which compromises safety and security.
3. The congestion at the borders delayed AEOs as they have no express passage and therefore had to endure the long queues, especially at Malaba and Namanga border posts.

Global Experience on AEO Scheme Implementation.

The East African region can learn from the experiences and practice of other countries that have advanced in their AEO scheme.

Thailand embarked on a process of raising uptake. Their approach, worthy of note and emulating recommended the following to make an AEO programme more popular among supply chain companies: i) Make the AEO application process for economic operators, as practical, low cost and fast as possible; ii) Invest in the systematic design, implementation, monitoring and continuous improvement of an AEO benefits scheme; iii) Promote multi-agency cooperation under the 'Thai AEO umbrella', potentially as part of a coordinated border management agenda; iv) Consider extending the AEO scheme to additional actors eligible for AEO status, while fostering active collaboration with industries; v) Consider complementing and/or replacing transaction-based approaches with systems-based and audit-based approaches in the future, focusing in particular on AEO companies; and vi) Contemplate the possible conclusion of AEO MRAs with one or more countries/regions; proactively manage AEO company expectations regarding the schedule and ultimate benefits of future MRAs.

While the EAC manuals appear very similar to the EU AEO Compact model, the dual-purpose observed in the EU is not there in the EAC region. This dual-purpose is a) provide guidelines to the operator, who will then be able to do a self-assessment and prepare a profile of his business processes and the supply chain aspects. The staff of MSMEs in the region has, in general, limited expertise and skills to perform this task; b) customs authorities use the guidelines to determine which aspects must be investigated during the pre-audit. Economic operators reported that virtually all aspects are investigated, and a sense of anxiety arises as operators fear falling into unintended tax exposure. The EU guidelines provide flexibilities depending on specific national risks to cover differences in local or regional aspects.

About MSMEs, it is important to learn from India. Recognizing their critical contribution in supporting the economy, India introduced an initiative dubbed "Liberalised MSME AEO Package" for micro, small and medium enterprises (MSMEs) to encourage eligible MSMEs to provide advantages, faster customs clearances, and other related benefits. The package relaxed the compliance criteria provided the MSMEs have a valid certificate from their line-Ministry. It allows MSMEs who have filed a minimum of 10 Customs clearance documents in one year and who have a clean compliance record over two years to apply for the scheme. The documentary requirements have also been appreciably simplified.

Discontents with the AEO scheme are not confined to the EAC region. These are commonplace. A study by Deloitte in the Netherlands (2013) found businesses lamenting that they had experienced increased inspections by customs rather than a decrease. The costs of meeting the AEO requirements were viewed as disproportionate to the benefits. The report called for tangible and measurable benefits accompanied by simplified customs procedures where the economic operator was in control. Another important observation was the need to install/upgrade IT infrastructure. The findings were critical in informing Netherlands' AEO terrain reforms and transforming the country into one of today's best practices.

Lessons learned

The analysis has revealed some vital lessons which have in several ways informed the recommended changes proposed. The lessons include:

1. Private sector involvement is critical. Higher awareness and uptake will be achieved when the private sector plays a larger role. Enlisted AEOs receiving benefits will be better-placed ambassadors to sell the Programme. The private sector can propose new approaches to outreach and managing benefits. Industry participation and involvement at all stages of implementation of the scheme is key.
2. Need for harmonization and simplification. There is a need to harmonize the processes of application, risk assessment criteria in the accreditation process across the region. When similar treatment is found throughout the region, economic operators will find it more attractive and realistic with guaranteed satisfaction. Similarly, across the region, measures to simplify the scheme to accommodate MSMEs will increase the appeal and make the scheme more relevant.
3. Provide benefits. The scheme is good when it walks the talk. The Program's fate rests with the assurance that the rigor of compliance will be rewarded by worthy benefits all the time and in all the countries, including those with whom the region has Mutual Recognition Agreements (MRAs).
4. Capacity building. Continuous training and building capacity are required for Customs and all operators. The customs authorities should make sure that the staff fully understand the scheme and its intended purpose, making them attend to clients with more courtesy and make it attractive to more businesses.

CHAPTER 3: RECOMMENDATIONS

Measures to increase awareness

Awareness is critical for the success of the scheme. Satisfactorily raising it will require all customs staff to have a common understanding of the scheme. Newly recruited staff should be rapidly trained on the scheme. It is also necessary to build support from other government agencies and ensure that all the countries have measures for sensitization. In some countries, the AEO coordinators only get a slot but have no dedicated sessions specifically set aside to raise awareness of the scheme. Moreover, it is necessary to help member states mobilize resources to implement their AEO programs, including developing a standard AEO curriculum and training them.

Training. Develop the AEO curriculum and train trainers. More avenues should be created, including formal training centres as well conferences and seminars. Where customs administration has schools, then the Programme to be a part of the syllabus; for example, in the Kenya School of Revenue Administration (KESRA). Opportunities to be sought to share ideas and experiences and sensitize both customs officers and other agencies dealing with transit goods.

Allocate an adequate budget for the sensitization team to conduct exhaustive training on the AEO program to cover as many stakeholders as possible, including CEOs of the government agency involved with the cross borders trade, private sector, and all respective public staff at cross-borders.

Regularly update the activities contained in the program's communication and visibility plan. The plan can factor in messages on what is being done in partner countries and elsewhere as well emerging issues and interventions such as the COVID-19 pandemic. Member countries can share experiences and exchange ideas.

Deploy a robust communication plan using a variety of channels such as mainstream media, social media in addition to face-to-face awareness raising platforms, websites, radio, and TV programs to market the scheme. Organize regular awareness campaigns through all media channels like roadshows (with banners) detailing the benefits of AEO. Use fleets of economic operators and their premises to advertise the scheme and capitalize in trade forums, especially trade facilitation-related ones, to raise awareness about the Programme. Organize conferences and workshops. Prompt and accurate dissemination of information will add to this endeavour.

Organize large-scale activities to bring more economic operators together and use the opportunity to raise awareness about the AEO program. Such functions should be developed jointly by customs and the private sector. The idea is to have more stakeholder engagements to emphasize its benefits and ensure that those in the scheme and benefit from it can attest to its value. Confirming that there are tangible benefits would make it easier to pass the message across.

Continuous engagement with AEOs to find out what benefits they are not getting. Engage all logistics industry sector through their various Associations by conducting targeted engagements, say with specific sectors and where need be, even to engage individuals directly involved in logistics to work with the sole intention of ensuring that communication about the Programme is delivered effectively.

Harmonization and sensitization of customs administrators and other agencies, including FEAFFA officials, to remove mistrust and suspicions and, more importantly, to ensure a

common understanding and appreciation about the scheme so that all agencies recognize the AEOs and accord the express treatment expected.

Ultimately, the awareness and knowledge of the Programme should become entrenched in the industry and be the aim and dream of every operator. The customs administrators will partner with the private sector in collaboration with other agencies to ensure a common understanding and mutual trust for a smoother and greater flow of business and increased revenues from larger volumes of transactions. For the traders, that will result in lower costs of doing business and predictability.

Measures to Increase uptake

Level of uptake

Key steps in increasing uptake include: standardizing level of offering AEO benefits to AEO companies in all EAC Partner States (Some AEOs expressed dissatisfaction of the treatment they receive from some EAC countries); getting the AEO Identifier configured in all the Revenue Administration's Systems; obtaining the buy-in of other regulators; finding solutions where some benefits are said to conflict with the Law and Regulations (some benefits are withheld on risk management grounds despite the accreditation); and seeking ways of adapting to unique circumstances of each partner state in addition to reviewing of the requirements especially the level of investments required of the economic operators to comply.

The following measures are proposed to increase uptake of the AEO program in the EAC region:

1. Enhance buy-in. With the EAC secretariat taking the lead and commitment of the heads of Customs to spearhead other government regulator's buy-in. A campaign to increase awareness and visibility sessions coupled with testimonies of benefits by AEOs. Practical measures to demonstrate determination, such as speedy processing of applications and faster clearance of goods for AEO companies, would make it more attractive and get buy-in. Continuous sensitization and awareness programs will also help marketing the scheme as a tool that promotes and facilitates trade. Stakeholders (both internal and external) should be sensitized and trained on the Programme to know how to handle it effectively. Furthermore, the EAC and Customs administrations should seek the buy-in of other Regulators and bring them on board to fully support compliance and ensure that AEOs are treated properly.
2. Capacity building. This is needed for the business community and customs officers handling AEO matters. It is necessary to build the capacity of the Customs officers managing the Program and field Officers offering the AEO benefits. The various stakeholders should be educated on the importance and benefits they will accrue by correcting their merchandise and documentation. Improve the capacity of revenue authorities; customs to keep up with changing environments, e.g., Keeping up with technological advancements, encourage non-intrusive cargo checking. Customs personnel will be made to embrace the AEO in totality and have the full confidence that it is secure and for the benefit of all in the economy. The governments should allocate adequate funds for the AEO program. Capacity building can be complemented with benchmarking missions to learn how others have done it. Moreover, stakeholders should be trained on ethics, integrity, and mindset change. To complement available resources, the program leaders should solicit technical support for the region and individual countries.

3. Provide benefits as promised. If the scheme's beneficiaries are trusted and given their full benefits, they will ensure that all they are doing is in line with the rules and regulations. For the scheme to be more attractive and yield more benefits in compliance and security, there is a need for continuous awareness towards providing the promised benefits in all EAC Partner States. It is also important to streamline the benefits of AEO across the region. A green channel should be provided to expedite movements and cargo released without subjecting the same to normal verifications. If in doubt, the officers can arrange to verify the cargo at the clients' premises after clearance. This will avoid expenses such as port storage charges, container demurrages, etc., which can be avoided for the AEO shipments. Seek ways to expand the number of benefits to be granted and explore options for self-regulation.
4. Strengthen cooperation between EAC countries' revenue authorities and other government agencies. This will facilitate mutual recognition and cooperation across the region. In addition, it is advisable to harmonize freight logistics data and information flow and management across the region. EAC must ensure that all players adhere to the same standards while at the same time adapting the Programme to the socio-economic situation on the ground in each Partner State.
5. Seek support to resolve challenges with the security side of the AEO requirements. While customs administrations and the business community have dealt with the compliance angle, security issues have remained a major issue.
6. Make requirements very objective with clear KPIs after accreditation. Clarity and objectivity of decisions in processing the applications. Credible data is needed. As observed in the WCO report, compiling and maintaining the necessary data will require sharing of quality information and trade data on AEOs among the EAC Partner States is a critical pillar that supports the Programme, which itself demands a supportive information technology infrastructure to collect and analyse data. It was reported that a regional strategic dashboard which provides a quick report on the different aspects of the Programme was developed. If it is still functional, then its functionalities can be enhanced to capture and share a wider spectrum of data in an interactive manner.

Measures to improve the administrative framework

It is necessary to evaluate existing benefits to improve the scheme's effectiveness to ensure that they are still relevant and adequate. Among the urgent areas that require attention is the need to raise the professionalism of the staff involved by providing training in critical areas such as risk management, Data Analytics, Valuation and Classification, Supply Chain Security, and Customer care. The EAC secretariat should also get more involved in AEO program awareness by engaging EAC Partner States to provide benefits and mobilize fund to support MSMEs meeting AEO eligibility requirements in addition to facilitating a process to harmonize the risk assessment criteria in the accreditation process across the region, as each state has its criteria.

The following measures are proposed to enhance the administrative framework for the EAC AEO program:

1. Create an all-inclusive forum to spearhead the program implementation. This is to incorporate a structured platform for consultations between EAC Secretariat, national governments (through AEO coordinators), and the private sector. The forum will have a clear business schedule and calendar for scheduled meetings. It will identify priorities for the training of all stakeholders and define the roles and responsibilities of each party. In addition, it will set clear key performance indicators covering the entire scope of interest

from application to post-authorization. There will be networking sessions for all operators to enhance learning and knowledge management

2. Under the auspices of the forum suggested above, establish a multi-task team to be vetting all the applicants and properly educate the facilitators of the scheme on how to implement the Program to meet the intended purpose/ results.
3. Explore opportunities for some flexibility at the application stage for different sectors and countries to attract more businesses. One option would be to introduce different levels within the scheme.
4. Increased focus by the management. Get the EAC more involved in ensuring joint strategies and uniformity, especially to get the Member States to commit to providing the promised benefits fully. Also, focus by the national coordinators by ensuring that Customs Administrations pay more attention to the Programme through the allocation of more staff, time, and funds to facilitate the scheme.

Measures to increase participation of MSMEs

The MSMEs need help to gain more awareness and financial support to meet AEO eligibility requirements. The customs staff should be educated on how to deal with the MSMEs. Moreover, there is a need to review the design of the scheme because, as it stands now, it is not suitable to involve MSMEs in terms of criteria and benefits; Some MSMEs do not meet the criteria when wishing to join the scheme; additionally, the basket of benefits proposed is very limited as they do not comply with the reality on the ground depending on the socio-economic situation of each EAC Partner State.

Capacity building to professionalize management. Through training and sensitization, MSMEs can be assisted to improve management systems. Some customized training for MSMEs is necessary to hone their understanding of the scheme. Even more appropriate is a holistic strategy to develop the competitiveness of the SME operators. In addition to improving operational effectiveness, they can also increase their productivity and realize economies of scale. They would also require support to build the necessary IT infrastructure to meet AEO eligibility requirements. There should be a business clinic/coaching of sorts to pre-check SME applications before submitting. The FEAFFA has previously made efforts to support a select group of MSME champions. These efforts should be scaled up to have a bigger group enrolled. The program leadership can help to secure sponsorship for these interventions.

Flexibility. Some degree of flexibility is necessary to encourage MSMEs'. Simplify procedures, matching requirements with the size of operations, and clearly defining MSMEs are critical parameters to inform the development of a tailored package. In addition, there is a need for clarity on communication on what is expected of the MSMEs while joining the scheme. The scheme should identify avenues to make the AEO application process easier and straightforward. That can include exemption from certain requirements. For instance, their paper documents should be accepted. Finally, MSMEs would like the certainty that the promised benefits will indeed be provided and that new ones can be accommodated that suit their circumstances. The process should envisage some kind of a simplified trade regime for MSMEs in the sector.

Customs officers should be sensitized to understand the MSMEs' circumstances and adopt positive attitudes when dealing with them. Speedy turnaround periods would encourage MSMEs.

Measures to mitigate COVID-19 effects on the AEO scheme

The main action required concerning COVID-19 is to propose mitigation to deal with the limitations brought about by the COVID-19 protocol, particularly halting field visits for validation of AEO applicants.

1. More digitization of processes. To reduce transactions that require human intervention by automating the entire process and encourage non-intrusive checking mechanisms at the borders.
2. Efforts should be made to have an expressway for AEO companies as they are supposed to be served first.
3. The scheme should devise mechanisms for further mitigation such as insurance, PPEs, and preference for AEO crews in vaccination drives.
4. COVID certificates given in one member state should be mutually acceptable in another member state.
5. Online platforms for processing applications.

CHAPTER 4: IMPLEMENTATION AND CONCLUSION

The AEO programme will result in a situation where the EAC region has widespread knowledge and acceptance of the scheme. The consequent changes in management and behaviour of the economic operators and new partnerships with customs and other government agencies, built on trust and integrity, will cause rapid growth in trade. The framework below presents the results chain and required resources. The expertise needed is primarily for training and advising on the necessary reforms.

The AEO scheme remains fundamentally critical as a means of poverty reduction through increased trade in the region. This has been made more pertinent with the advent of the continental trading block. The region will arrive at that stage when there is a critical mass of authorized economic operators and widespread awareness of the scheme among all stakeholders, including businesses, customs, other border agencies, and trade supporting entities, both public and private. Considering the vast majority of economic operators in the region are small and medium, their competitiveness must be enhanced holistically. Neither capacity nor recognition of the scheme will hinder their willingness to join. Similarly, the knowledge and understanding of the scheme will require to reach levels where both compliance and security are not only clearly understood by the customs administration but to be leveraged upon for improving service delivery and bringing better relations between customs and the private sector, the kind of partnership which coupled with national associations of AEOs, and their coordinators will yield collaborations necessary for a win-win situation. Such collaborations will extend to harmonizing the AEO coordination in the regional countries so that a standard approach is adopted in assessing the applicants and providing the benefits.

Achieving the results described above will demand reforms, strategic partnerships, and capacity building in training and other facilitation. The scheme as currently structured is largely inaccessible to MSME operators. There is a need to reform it in such a way as to simplify the requirements for the sake of small operators. The reforms could include consideration to accept paper documentation. It will also be necessary to reform certain articles in the customs legislation to remove any conflicts that currently cause some benefits to be disallowed. Customized competitiveness enhancing programs are needed to address traditional managerial weaknesses that afflict the MSMEs. These will include improvements to information systems, financial management, operations, and quality standards. The operating systems by the customs administrations will require changes to ensure that the AEO configuration is accommodated in all the customs administrations. Both customs and economic operators should mainstream ethics and integrity programs in their operations to resolve the issues of mutual suspicion, mistrusts, and perceptions of corruption. A total change in work ethics and attitudes can be achieved by training Kaizen or any other tool.

Implementation: Proposed measures and framework

| Impact | Higher trade will increase overall social and economic development in the region | | | |
|-------------------|---|--|--|---|
| Outcomes | 1.0 Widespread awareness and knowledge of the Programme | 2.0 AEO benefits fully provided | 3.0 Management effectiveness | 4.1 Overall improvement in MSME competitiveness. |
| Outputs | 1.1.1 Campaign program 1.1.2 Trained trainers 1.1.3 Curriculum | 2.1.1 Capacity building program 2.1.2 Harmonised approaches 2.1.3 Communication plan 2.1.4 Public reforms (Customs) | 3.1.1 Public-private sector forum established. 3.1.2 Revised SOP 3.1.3 Joint strategy for implementation | 4.1.1 Competitiveness enhancement program 4.1.2 Simplified AEO regime 4.1.2 Synchronised Customs operating applications incorporating the AEO identifier. |
| Activities | 1.2.1 Training 1.2.2 Advertising 1.2.3 Resource mobilization | 2.2.1 Training 2.2.2 Negotiations 2.2.3 Publications | 3.2.1 Consultations 3.2.2 Collaborations. | 4.2.1 Training 4.2.2 Resource mobilization 4.2.3 Needs assessment |
| Inputs | 1.3.1 Curriculum 1.3.2 Trainers 1.3.3 Course developers 1.3.4 Facilities | 2.3.1 Expertise | 3.3.1 Best practice lessons 3.3.2 Expert advice | 4.3.1 Expertise 4.3.2 Funding |

Training: To develop an AEO curriculum incorporating risk management; record keeping; management information systems; ethics and integrity as well as customer relations among others.

Advertising: Publications, promotion material and media campaigns to create and sustain awareness about the AEO scheme.

Resource mobilization: For capacity building. This to include preparation of technical proposals for support and lobbying for higher budgetary allocations.

Negotiations between member states to synchronize customs operating systems; increase border operating hours to 24/7; and harmonize the scheme so that the process is seen to be uniformly credible, and benefits be awarded seamlessly across the region.

Collaborations: Among the economic operators; between economic operators and Customs administrators as well as with other Partner Government Agencies.

Needs assessment: to determine the full extent of the resources required for capacity building.

A tremendous amount of resources will be needed to achieve these improvements. Different sources should be targeted, including persuading the regional government to increase the budgetary allocations for the AEO program. Moreover, the EAC Secretariat, alongside individual countries and the private sector associations, will reach out to development agencies.

CONCLUSION

Growth and sustainability will require more publicity to increase awareness, harmonize to provide certainty across the region, more training, sensitization, and expansion of hard and soft infrastructure. The implementing bodies should endeavour to establish credible collaborations among all the stakeholders; ensure there is value for money; build a structured forum for standards and transparency; adopt a holistic approach to improve management capabilities of MSMEs and inculcate resilience to deal with the COVID pandemic as well as dealing with any other unforeseen circumstances.

The AEO program is a game-changer in improving efficiency once fully embraced by the respective stakeholders (both the operators and implementers). It has improved professionalism in doing business and will drastically reduce logistics in the supply chain and the overall cost of doing business in the region, thus increasing competitiveness. AEO has tremendous potential to improve trade facilitation, but that will only be realized if the scheme is managed with more efficiency and transparency. Concerted efforts are needed through more private sector involvement (including MSMEs) in management and more dedication and commitment of Customs Administrations' management.

Annex 1: TERMS OF REFERENCE

CONSULTANCY TO UNDERTAKE ANALYSIS OF ISSUES AFFECTING UPTAKE OF AUTHORISED ECONOMIC OPERATOR SCHEME BY BUSINESSES IN THE EAST AFRICAN COMMUNITY (EAC)

I. BACKGROUND & CONTEXT

The Authorized Economic Operator (AEO) scheme is one of the main building blocks within the World Customs Organisation (WCO) SAFE Framework of Standards (SAFE) aimed at facilitating speedy clearance of goods through customs. AEO is a Customs-to-Business partnership, where economic operators can be accredited by Customs authority as AEOs upon meeting edibility criteria such as Prove of integrity in the information provided to customs; Integrity of the operator's staff; and secure access to operator's premises, to prevent unauthorized persons from putting goods in the container. The WTO Trade Facilitation Agreement reinforced the importance of AEO as a tool for trade facilitation trade and enhancing supply chain security.

The AEO program recognizes businesses that participate in the international movement of goods for complying with SAFE and security standards to benefit from a package of trade facilitation incentives. The WCO Transit Guidelines 2017 outlines numerous benefits to be availed to AEO-accredited firms. This includes reducing physical and document-based controls, priority treatment, choice of controls, easier admittance to customs, etc. Businesses with AEO status clear and process cargo much faster than the rest hence cutting down on cost. With the supply chain disruptions occasioned by COVID19 and the increasing need to expeditiously move essential supplies across borders, the AEO program has become even more critical. On the international scene, mutual recognition agreements enable AEO accredited firms to enjoy these benefits beyond their national boundaries. Customs clearing and freight agents, shippers, and truckers are key targets of the AEO program under the customs to a business pillar. Their accreditation is crucial in achieving full AEO accredited supply chains.

The Federation of East African Freight Forwarders Associations (FEAFFA), based in Nairobi, Kenya, requested the Commonwealth Secretariat for technical support for the regional Programme on "Enhancing the uptake of the Authorised Economic Operator (AEO) by business as a tool for trade facilitation in East African Community." The FEAFFA program is structured in three phases involving several planned activities, including Conducting a study to map issues affecting uptake of AEO in the EAC, develop and publish a policy paper from the finding of the study and the recommendations, and Create awareness of the AEO program in the EAC, among others.

The Secretariat previously supported FEAFFA to undertake a regional sensitization meeting in the EAC for the AEO in Dar Es Salaam Tanzania from 7-8 November 2018. The key issues that emerged from November 2018 workshop are among the areas proposed in the FEAFFA program.

II. KEY ISSUES AND BUSINESS CASE

The EAC Partner States have implemented the AEO program for over ten years; however, the uptake remains low to impact the gains from cross-border trade positively. The East African Community (EAC) has committed to the implementation and domestication of AEO under part V of EAC Customs Management Regulations of May 2012. It has also established a regional AEO program in partnership with regional revenue authorities and the WCO regional office,

which has 132 firms accredited so far. The EAC signed a Mutual Recognition Agreement (MRA) Action plan with South Korea Customs on AEO and discussed several other countries.

The low uptake of AEO is mainly attributed to the low level of awareness, the complexity of the Program, insufficient capacity of most of the businesses to meet the AEO requirements. Most affected are the small and medium enterprises (SMEs) who risk being edged out of business as the more established and bigger operators access the AEO benefits that offer them a competitive advantage. Among the current AEOs, only a handful are Small Medium Enterprises (SMEs). It is also important to note that the region has migrated to a Single Customs Territory (SCT) with mutual recognition of Customs Agent licenses. A principle of the AEO scheme is that it must be accessible to organizations of all sizes, with SMEs being an important sector.

The stakeholders targeted for this assignment include, among others: customs authorities, importers, exporters, AEO Associations, private sector associations, customs agents, freight forwarders, shippers, and transporters. The aim is to establish the challenges that have inhibited the uptake of the AEO scheme in the region; create awareness on the scheme focusing on the benefits and requirements; explore strategies of making the scheme more business-oriented and build the capacity of the private sector players to meet the threshold for AEO qualification.

III. KEY OBJECTIVES

The project's overall objective is to reduce the cost of freight logistics services by hastening clearance of goods through Customs by increasing the number of Customs agents and freight forwarders (CFAs) importers and exporters, and transporters operating under AEO.

Specifically, the study objectives are:

- i) Examine the issues that inhibit the uptake of the AEO scheme in the East African Community.
- ii) Establish the composition of the AEO scheme (legal and regulatory framework, procedures, compliance, supply chain security requirements), the successes, gaps, and draw policy recommendations that would enhance the growth of the AEO programme across all stakeholders.
- iii) Develop policy briefs that highlight the outcome of the study and possible interventions necessary.

i) SCOPE OF WORK

The consultant to be selected by the Commonwealth Secretariat shall be responsible for all the tasks defined within these Terms of Reference.

The consultant shall undertake to:

- i) Examine the issues that inhibit the uptake of the AEO scheme in the East African Community across large, medium, and small enterprises.
- ii) Establish the composition of the AEO scheme in terms of the legal and regulatory framework, procedures, compliance, and supply chain security requirements, successes, and gaps.
- iii) Draw policy recommendations that would enhance the growth of the AEO programme across all stakeholders.
- iv) Develop policy briefs highlighting the outcome of the study and possible interventions necessary.

ii) EXPECTED DELIVERABLES

The consultant is expected to:

- i) Inception Report submitted to the Secretariat within 7 days from commencement of the contract, outlining the methodology and structure of the study report.
- ii) Complete study report encompassing the underlined objectives and scope of work.
- iii) Policy brief highlighting the outcome of the study and possible interventions necessary.

iii) REQUIRED EXPERTISE

- i) Postgraduate qualification in either International Trade, or Economics, or Customs management, International freight, or Logistics supply chain management.
- ii) 10 years of professional experience in customs management and administration, trade facilitation, and involvement in trade policy research.
- iii) Sound knowledge and understanding of international trade facilitation initiate customs management and administration, international freight and logistics supply chain management.
- iv) Excellent skills in undertaking policy research and development of policy briefs.
- v) A good understanding of the economic fabric of the EAC and business environment.
- vi) Knowledge of EAC Customs systems, operations, and management across all the Partner States.

iv) REPORTING REQUIREMENTS

The Trade Adviser, Commonwealth Secretariat, will supervise the project. The FEAFFA, which is the main client for this project, will facilitate the consultant's access to information and data collection stakeholders.

v) BUDGET

An all-inclusive fee including professional fees, taxes including VAT, incidentals, and any other project-related costs.

vi) TIME FRAME

The assignment is expected to be completed by 31 May 2021. The assignment is planned to commence on 2 March 2021.

Annex 2: QUESTIONNAIRE FOR ECONOMIC OPERATORS

A. Awareness of the scheme

1. Which of the following best describe your business? (You can tick several).

| Importer | Exporter | Freight forwarder | Customs agent | Transporter | Bonded warehouse | Manufacturer |
|-----------------|-----------------|--------------------------|----------------------|--------------------|-------------------------|---------------------|
| | | | | | | |

- 2. Are you aware of the Authorised Economic Operator (AEO) scheme? Yes/No.
- 3. Are you an AEO? Yes/No. (If NO, skip 4-8).
- 4. How would you describe the success of the AEO scheme in your country and the region regarding awareness by the relevant economic operators? Please tick your choice.

| Area | Poor | Moderate success | Highly successful |
|------------|------|------------------|-------------------|
| Country | | | |
| EAC/Region | | | |

5. Is there a plan in the country to create and sustain awareness of the scheme? Yes/No.

Please explain

.....

6. What are the challenges in creating and sustaining awareness of the scheme?

Please explain

.....

.....

7. Is there high awareness among the business community in your country? Yes/No.

Please explain

.....

How, in your opinion, can higher awareness be achieved?

.....

.....

B. Level of uptake

1. How would you describe the scheme's success in your country and the region regarding the number of authorized economic operators? Please tick your choice.

| Area | Poor | Moderate success | Highly successful |
|------------|------|------------------|-------------------|
| Country | | | |
| EAC/Region | | | |

2. What factors, in your opinion, have affected the results you have realized so far?

.....

3. To what extent have the benefits promised to AEOs been received? Please tick your choice.

Importers/Exporters/Manufacturers

| Promised benefits | Every time | Sometimes | Rarely/Never |
|---|------------|-----------|--------------|
| Automatic passing of declaration | | | |
| No physical examination of goods, except for random or risk-based interventions | | | |
| ECTS requirement waiver where applicable | | | |
| Expedited payment of refund claim | | | |
| Reduced Customs security where applicable | | | |
| Priority to participate in Customs initiatives | | | |

Customs Agents/Freight Forwarders

| Promised benefits | Every time | Sometimes | Rarely/Never |
|--|------------|-----------|--------------|
| Guaranteed renewal of Customs agent's license | | | |
| Priority to participate in Customs initiatives | | | |
| Priority treatment in cargo clearance chain | | | |
| Waiver of movement bond requirements for AEO | | | |

Transporters

| | Every time | Sometimes | Rarely/Never |
|---|------------|-----------|--------------|
| Guaranteed renewal of transit goods license and any other licenses issued by Customs. | | | |

| | | | |
|--|--|--|--|
| Exemption from the mandatory use of Customs Electronic Cargo Tracking System | | | |
| Priority clearance at entry and exit points | | | |

Bonded Warehouse Operators

| | | | |
|--|--|--|--|
| Self-management of bonded warehouse | | | |
| Guaranteed renewal of Warehouse Operator's license | | | |
| Reduced Customs security wherever applicable | | | |

4. In your opinion, do a majority of the AEOs receive value for the money and struggle of going through the accreditation process? Yes/No.

Please explain

.....

5. In your opinion, how much has the scheme contributed to the following?

| | High contribution | Low contribution | Difficult to tell |
|--------------------|-------------------|------------------|-------------------|
| Security | | | |
| Speed of clearing | | | |
| Revenue collection | | | |

Add any comments

.....

.....

6. How can the scheme be made to yield more benefits in terms of compliance and security?

.....

.....

C. Management of the scheme

1. How effective (Very effective; not very effective; fairly effective) is the administration in the current framework in terms of:

| Aspect | Very | Fair | Poor |
|--|------|------|------|
| The efficiency of services to economic operators | | | |
| Involvement of the private sector | | | |
| Flexibility in processing applications | | | |
| Uniformity across all countries | | | |
| Partnership with the EAC secretariat | | | |
| Capacity building to increase capabilities of the economic operators | | | |
| Support to increase the involvement of MSME operators | | | |
| Transparency in assessments | | | |

2. What changes would you recommend to the framework of administering the scheme?

.....
.....

3. Is there sufficient capacity (skills, tools, and processes) within FEAFFA to deal satisfactorily with the scheme? Yes/No. Please explain.

.....
.....

D. Medium and Small Enterprises (MSMEs)

1. How satisfactory are the participation of MSMEs in your country and the region? Please tick your choice.

| Area | Not satisfactory | Fairly satisfactory | Highly satisfactory |
|------------|------------------|---------------------|---------------------|
| Country | | | |
| EAC/Region | | | |

2. What factors, in your opinion, have hindered the greater involvement of the MSMEs?

.....
.....

3. How can the MSMEs be supported to join the scheme at national and regional levels successfully?

.....
.....
.....
.....

E. COVID-19

1. In which ways has the COVID-19 pandemic affected the scheme?

.....
.....

2. How can the effects be mitigated?

.....
.....

F. Lessons learned

1. What lessons have you learned so far from the implementation of the scheme?

2. What other recommendations would you like to make the scheme more successful?

Thank you. All information will be handled with the highest degree of confidentiality.

Annex 3: SUMMARY OF QUESTIONNAIRE RESPONSES

| # | Respondent | Country | Org | Operation |
|----|---------------------|----------|-----------------------------------|---------------------|
| 1 | Njeri Kenyaggia | Kenya | FEAFFA | FF |
| 2 | Daniel Nzeki | Kenya | AEO | FF, Customs agent |
| 3 | Josephine Nyebaza | Rwanda | FEAFFA/AEO | FF |
| 4 | Josias Muhayimana | Rwanda | RRA | Customs |
| 5 | Noel Kayaywa | Kenya | KRA | Customs |
| 6 | Peninah Kirungi | Uganda | URA | Customs |
| 7 | Gilbert Nizigama | Burundi | BRA | Customs |
| 8 | DHL | Uganda | EO | Clearing agent |
| 9 | Victoria Motors | Uganda | EO | Importers |
| 10 | Uganda Baati | Uganda | EO | Importers |
| 11 | Uganda Batteries | Uganda | EO | Importers |
| 12 | Uganda Fishnet | Uganda | EO | Importers |
| 13 | Spedag Interfreight | Uganda | EO | FF/Transporters |
| 14 | General Motors | Uganda | EO | Importers |
| 15 | Rapid Kate Services | Uganda | EO | FF |
| 16 | Jess Farm | Uganda | EO | Importers/exporters |
| 17 | Steel and Tube | Uganda | EO | Exporters |
| 18 | Elias Baluku | EAC | FEAFFA | FF |
| 19 | Daniel Massawe | Tanzania | Dow Elef | FF |
| 20 | Amos Changwony | Kenya | Mittchel Cotts/ AEO | FF, Customs agent |
| 21 | Edward Karamuzi | Rwanda | RWAFA | Customs agent |
| 22 | Dr. Simon Gikanga | Kenya | KTDA/AEO | ALL |
| 23 | Dr. Nganga Muhia | Kenya | Self | Agent |
| 24 | Edwin Changwe | Tanzania | TRA | Customs |
| 25 | Jules Nyiridandi | Rwanda | AEO | FF/agent |
| 26 | JB Rusagara | Rwanda | AEO | FF/Agent |
| 27 | Edward Urio | Tanzania | FEAFFA | FF |
| 28 | Jacky Ingabire | Rwanda | Freight Forwarders Rwanda Ltd. | FF |
| 29 | Kennedy Kamande | Kenya | EFL/EO | Warehouse |