EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy
Customs legislation and control of the application of community legislation

Public Consultation on the draft implementing provisions concerning new security and safety measures

(1) Summary of trader's comments

Procedural issues

1. Traders ask to distribute the incoming comments to all the parties contributing to the open consultation. Other traders require a tripartite approach to discussions: Commission, Member States and the Trade representatives should have regular meetings together to discuss the draft IP.

2. Traders considered the Annex (of data elements) to be too much complicated, and requested to provide with concrete examples showing the different situations as to the modes of transport, movements of goods and third countries.

3. Some Traders request cost-benefit analysis of the security and safety provisions.

AEO issues

1. The AEO benefiting from facilitations concerning security and safety controls should be given more benefits. Trade has the view that at present there are no significant benefits listed in the draft which could drive an operator to apply for AEO status. In particular, Trade is seeking benefits in terms of the data requirements and the time limits for submission of the summary declaration. Several Traders asked for a complete exemption.

2. Concerning simplifications to be used by AEO, there appeared to be a misunderstanding: whether the existing simplifications will remain open to all economic operators, or only to AEO; and whether AEO can benefit from every simplification provided for in the Implementing Provisions.

3. There is an expectation from Trade for the possibility to submit an application in the name of a group of companies.

4. Trade has the view that the criteria in general for getting the AEO status are unreasonably high. They think that they will need to effectuate considerable investments in order to meet the criteria mentioned in the relevant articles of our draft. They question the need of meeting every criterion and ask to revise them and to delete those which are not related to real risks.

5. As to the Guidelines in general, trade would prefer to have the Guidelines included in the Implementing Provisions as an Annex.

6. As to the specific criteria commented, the following issues were raised:

- record-keeping criteria:

  -- there was expressed the strong need of strict confidentiality with regard to business data;

  -- the formulation of the criteria is not suitable for SME

- compliance criteria:

  -- the legal representative of the company should not be checked , only in those cases where the main shareholders are not known;

- financial solvency criteria:

  -- it is not possible to prove the financial solvency for the current and next year. We think they are right and we should delete accordingly that sentence at the end of the first paragraph of article 14h.

  -- the proof of the financial solvency for a parent company is too strict, the criteria should only provide for "taking into consideration its financial solvency" but not providing proofs of it.

- security and safety standards:

  -- there is a strong desire from Trade that the security certificates issued in the transport sector should be recognised by the customs authority for the purposes of meeting the security criteria. In this context, one Trader asked to broaden the scope of the companies involved to "transport operators" which comprise also service providers and non-vessel owning transport companies.

7. Traders questioned the reality of the 60-day performance from the side of customs authorities in the issuing process of the certificates. Traders demanded that the IP shall specify the cases where the customs authorities may prolong the period of 60 days. It was a general opinion that in order to avoid the situation where the customs authorities will not be able to cope with the amount of applications during the first months of implementation, the entry into force of the IP must foresee this situation (certain provisions should entry into force before they are applicable?).

8. AEO status should not be suspended or withdrawn in cases of not serious or trivial irregularities, or errors/mistakes.

Traders also raised that in many cases of allegations of irregularities an appeal procedure is launched, and there should be no possibility for suspension or withdrawal before the completion of the appeal procedure.

Traders also asked to define the term of "serious irregularity".

Traders asked to change the expression of "penal proceedings" to "criminal proceedings" in article 14d.

9. The deadline of 30 calendar days for making corrective actions in cases of suspensions of the AEO status is regarded too short.

10. As to the appeal procedure, Traders have the view that the AEO should be compensated of the economic damage he had suffered, if an appeal process following a withdrawal of AEO status proves to be successful for the AEO.

Traders suggested that a special appeal procedure for AEO must be in place.

11. Companies of certain third countries should be eligible to apply for AEO status, on the basis of bilateral agreements to be concluded.

12. Concerning the provision of obligatory information from AEO to the customs authorities (article 14r), Trade explained that the accounting systems of the companies are changed quite often, each time when there is a change for example in the company's structure or politics. The general opinion expressed from Trade is that it is enough to inform the customs authorities in those cases when there is a change in the condition of access to the information or in the way the information is available.

Security and safety issues

1. The number of the security data elements is considered to be too high, in relation to the WCO Framework of Standards or to the US requirements, and also, in relation to the existing transport documents (shipping manifests, air waybills). Especially, there is a strong wish to reduce the required data elements for AEO. The Traders were also expressing the view that they do not possess all the data required and that the additional data required for security and safety purposes will run them into costs and competitive disadvantage.

Certain business sectors or modes of transport were asking for exemptions (e.g. ship suppliers, air catering industry, express courier services, just-in-time deliveries, urgent last-minute deliveries, TIR, railway, airlines …)

2. We require several data elements which are not known to the freight forwarders, or to the carriers.

3. The use of Commodity codes in 4, 8 or 10 digit format is questioned, as well as the data of the freight costs.

A number of traders requested that the HS code should be optional, saying that the operator should first give a general description of the goods, and the customs authority shall decide on this basis whether to ask for further details.

4. Some Traders would prefer the US model of time limits for submitting a summary declaration (time limit is connected to the place of departure in the third country of export). Other operators expressed the view that the proposed time limits of 2 hours for air, rail and road transports should be reduced considerably.

5. Traders would need a quick notification from the side of the customs authorities indicating which shipments require a physical examination. For cases of the operation of the "just-in-time" consignments, such notification is asked to be delivered electronically within 15 minutes after submitting the relevant summary declaration. This would help avoiding double-handling or temporary storage of shipments while waiting for notification.

6. Just-in-time deliveries: it was proposed that the security and safety data should be submitted on a batch basis, rather then on a movement basis.

7. It was asked to look into the TIR movements, where the prior declaration data are additional to those which are required on the TIR Carnet. It demanded to find transitional solutions for the TIR operations which are not yet electronic (= 4 hours submission time limit).

8. Failure was noted to prescribe any international standard for the communication of electronic data. The data communication standards should be developed with UN/CEFACT, WCO and other international standards organisations.

9. There was generally expressed the need to conclude bilateral agreements focusing on the reduction of the time limits for submission of summary declarations with EFTA-countries.

Other issues

1. There is a wish to enlarge the scope of the existing facilities for single transport contracts.

(2) List of trade associations and companies which contributed comments

AEA	
AEBTRI	
AICES	
Airline Catering	
AISO	
AMCHAM EU	
ANTRAM	
ARTRI	
AUTF	
BDI	
CCIP	
CER	
CESMAD Bohemia	
CESMAD Slovakia	
CFOCT	
CLECAT	
CONFIAD	
Conseil du Commerce de France	
Customs Practitioners Group	
DIHK	
Dorma	
DTL	
ECASBA	
Economiesuisse	
ECSA	

e-customs	
EEA	
EECA	
Ernst & Young	
ESBA	
ESPO	
EUROCHAMBRES	
EUROCOMMERCE	
EUROPRO	
FEPORT	
FFI	
FFII	
FICIME	
FIEEC	
General Electric	
Hannl + Hofstetter Int. Spedition	
M. Heher	
HP	
Hugo Boss	
IRU	
LSG	
LTL	
NHO-Confederation of Norwegian Enterprise	
NSA (Norges Rederiforbund)	
OCEAN	
ODASCE	

PostEurop	
M.Sartini	
Shipowners, DK	
SGS Trade Assurance Services	
SIEMENS	
SNAGFA	
SYCAFF	
TATIS	
UIRR	
UNICE	
VCI	
VDMA	
VDR	
VDS	
VNO-NCW	
Zentralverband Spedition und Logistik, Vienna	
Zollas	

(3) Comments submitted by traders and others, by Title

-	**General comments**	-

Summary overview: traders comments		**Commission comments**
	Trade should be involved at all stages in the process in the discussions between the Commission and the Member States as, for example, in the Transit Contact Group or SAGAS, with a tripartite approach.	
	Trade federations and associations should be involved in the Committee proceedings. Steering Committee and Project Teams should be set up to manage the overall process of various subjects.	
	An impact analysis should have been carried out before drafting the IP. The costs of the changes should be made public.	
	Working documents should be available to trade, in 3 languages (EN, FR, DE).	
	[The provisions will not help real fight against terrorism. Bin Laden will never appear at the customs office of entry or exit with his documents.]	

	The eastern external border crossing points are already today facing queues of trucks and long waiting times. At many external customs offices neither the infrastructure nor the manpower will be able to cope with the new measures.	
	In many MSs, exports serve as significant contributions to the national economy. The new requirements will hinder considerably the exportation.	
	AEO provisions should enter into force for operators in the candidate countries at the same time as in the EU. If the borders with the candidate countries are external EU borders, where will the summary declarations have to be delivered? Depending on the date and year of entering into force and the date of the year the candidate countries will become MSs, special problems will arise for Romania and Bulgaria. Bilateral agreements between EU and candidate countries should be put in place.	
	Special arrangements should be concluded with EFTA partners, in order to arrive at practical exemptions and mutual recognition of AEO schemes.	
	Increased security must be combined with improved trade facilitation and not lead to increased transportation time, administrative burdens and increased costs. The new requirements place EU traders at a competitive	

	disadvantage, because they add to business costs and restructuring of business.	
	The new provisions concerning summary declarations should be consistent with the normal as well as the simplified procedures.	
	[The draft lacks ambition, which is regrettable in view of parallel efforts towards a paperless trade and customs environment.]	
	The AEO concept is too complex and costly.	
	The AEO concept should only focus on security, not on safety, which is taken care of by the UN (IMO).	
	The AEO concept fails to encourage any meaningful relationship between business and government.	
	No attempt has been made to provide for a single authorisation covering all 25 MSs, where this includes the status of AEO and all simplifications applied for by an AEO, and the application is made in a single MS.	
	It is considered that many of the requirements described as "Wishes expressed by European Traders" in TAXUD C/4 D/1479(2005) should be included in the Implementing provisions for AEO.	
	More benefits should be introduced already within the existing customs rules for AEOs. The current benefits should be considerably enhanced. More attractive benefits are needed. Real	

	benefits should be provided to traders to encourage participation.	
	AEO-Customs: articles 261, 264, 270 and 373 provide that an authorisation shall be refused if it is only used occasionally in the Member State concerned. The frequency of the use should be established on the basis of the operations in the EU as a whole, instead of separately in each of the Member States. It is not clear why the frequency of the operations, which is a commercial matter for the economic operator concerned, matters.	
	AEO-Security and safety should be exempted from pre-arrival and pre-departure declarations, as the customs authorities have access to all information needed. The time limits should at least be reduced to zero.	
	Special consideration should be given to SMEs when formulating the criteria of eligibility to AEO status.	
	The new security provisions undermine the existing simplifications for exporting companies.	
	The rules set out in the WCO “Framework of Standards” should be adopted.	
	It is questioned why the EC introduces an export security control, while import countries have their own security criteria that are not necessarily compatible with the EC rules. The US did not penalize its exporters. The situation leads to competition distortions at the detriment of EU exporters.	

	It will be extremely difficult to comply with the new provisions without well functioning automated systems for the implementation of risk management and for the electronic exchange of data between the customs offices (in English language). We can not see how this will work in practice, without being a cause of probable disruption. Disparities between Member states may result in distortion of competition among EU operators. Implementing Provision should not enter into force until the day these systems are in place. Paper-based summary declarations will damage trade and customs as well. What alternatives are there for traders to send pre-information to customs if customs IT systems are not in place or defect?	
	Member states should be allowed discretion in interpreting the way in which data requirements and time-tables are fulfilled. The practical implications of the requirements may well result in relaxations being decided by individual officials in the light of the impossibility to rigorously apply the regulation. Finite conditions and timescales shall be included in the regulation only where there is no alternative.	
	There already exists in some Member States' control systems data which can be used to provide any of the security requirements envisaged. Therefore, the regulation should set out the parameters which must be met by security systems rather than setting out in detail the system which must be applied. Without such flexibility, current control systems will need to be duplicated or more advanced systems have to be modified into simple systems which	

	serve the trading community less well.	
	The draft pays insufficient attention to the fact that artile 182c of regulation 648/2005 allows for the possibility that traders might wish to lodge summary declaration at another customs office than the office of exit, and for that office to transmit the data to the office of exit. Similarly for the entry of goods, article 36a of Reg. 648/2005.	
	There is no provision concerning the operator's liability for the provision and accuracy of data.	
	There is no provision as to who (carrier? importer? forwarder? etc) shall have to submit the summary declaration?	
	The draft fails to prescribe any international standard for the communication of electronic data. It is recommended to use UN/CEFACT and other standards developed by international organisations.	
	Frequent reference to Guidelines introduces uncertainty. Trade should be involved to comment the process of determining Guidelines.	
	The introduction of a Community wide risk management meets support as it ensures consistency throughout the Community.	
	The provisions on pre-arrival declaration and Annex 30A will have severe consequences for the road transport industry.	
	The provisions should not affect the intra-community transport of	

	goods, even if carried by sea through international waters.	
	The usual reporting of embarked-disembarked goods which are not subject to a customs procedure for which a customs declaration is required should be sufficient. Are formalities imposed on Community goods in the IC maritime transport? Ultimate goal should be to abolish all formalities in IC transport and replace them by e-communication between EU customs offices in the concerned ports.	
	The total number of data elements is 40. 19 will be required for simplified procedures. This is unacceptable.	
	The new requirements will have a detrimental impact to air industry, especially “third country” to “third country” business will be faced with fierce competition from non-EU carriers.	
	Movement of goods under ATA Carnet need exemption.	
	Air catering goods (to be consumed or purchased on board) need exemption. AOG principle and Total Technical Supply should be considered.	
	Combined road-rail transport shall be given consideration, especially with regard to the description of goods and other data elements, clients AEO – non AEO, time limits	
	Railway is traditionally having customs simplifications in border crossing transportation, due to the specifity of this mean of transport – uniform standards can not be implemented here. The	

	draft is not in harmony in this regard with the present IP. There are no customs formalities at present at the borders. A special working group customs-railway should be set up to find solutions to the problems.	
	National simplifications should remain in place.	
	Articles 285, 286 and 288 are formulated in contradiction to the security amendment of the Code, because the time limits are not linked to the summary declaration at the office of exit.	
	Article 182c of the Code foresees "before leaving the customs territory". The IP is drafted in contradiction to this provision (start of the export procedure at the office of export).	
	The new IT requirements would need minimum 1 year adjustment for IT-programs and logistical procedures – this should be reflected in the "coming into force" provisions.	
	The possibility described in article 36a(2) is missing in the IP (possibility of IT-access instead of submitting). Also missing provisions when entry office is not in the same MS as the MS where the declarant is established.	
	The provisions for the new article 40 of Code are missing.	
	Provisions concerning late, missing or false declarations are not in place.	

Title I/I	General Implementing Provisions	(Articles 4d-4g)

Article 4d

	Relevant data should be reported only once and by reference to one single point covering all EU Member States.	
	4d (2): it is vital that attention is paid to system fall-back arrangements, so that goods continue to be cleared. Where risk assessments are unable to be carried out due to IT system glitches it is suggested that there is an agreed timeframe by which economic operators can be assured that clearance will be done, bearing in mind the time sensitive nature of most cargo.	
	4d (2): Member States' customs administrations shall not be permitted to make bi-lateral arrangements concerning the data exchanged for risk assessment purposes. Easily extensible data sets should be the norm with the minimum data requirements mandated by the Commission.	
	The terms "mutatis mutandis", “adequate” appear to be vague.	
	The customs authorities shall monitor security regularly and inform each other of all suspected breaches of security..	
	Directive 95/94 (personal data) shall be set as the minimum standard. Minimum standards of sufficient guarantees (protection of	

	personal data) defined at European level for the security of messages and systems operated by the Member States should be laid down.	
	Security concept should deal with security against business espionage	
	WCO/UN standards and a centralised schema repository should be maintained by COM available for use by any MS. The principle should be easy implementation without large scale adjustment.	
	COM should set up a security task force.	
	Business shall have the possibility to transmit the data to customs authorities including all relevant customs office in the EU through electronic data processing and in internationally accepted data format. Also, single window concept should be taken on board.	
	(4): The consequences for the everyday business of the relevant operator are not clear.	

Article 4f

	Risk shall be implemented as a (Web) service centrally, provided by the Commission.	
	The security risk analysis shall be performed by one central station in Europe and not by the individual Member States.	

	It is not clear who should collect the data and who should assess the information obtained by the risk assessments of certain goods and mode of transport.	
	Will companies be given a rating comparable to the German national system, DEBBI? If so, will this rating have an impact on AEO status? Will it result in more delays or will it provide for better level of targeting?	
	Assurance is required that goods will be assessed within guaranteed timeframe (e.g. 10 minutes), or better still, the assessment should be undertaken automatically in real time and an immediate response provided.	
	Concern expressed concerning the word "impact" in the first sentence of (2), without any consideration for proportionality. The sentence should be reworded as follows: "The determination of levels of risk shall be based on an assessment of the likelihood of risk occurring (threat) and in proportion to its impact should that risk (threat) actually materialise.	
	Member States should not be given the possibility to introduce pre-defined random inspection quotas. Random checks should not lead to unnecessary controls. [Random element: why it is needed?]	

	Risk information for the AEO including the risk profile of AEO itself will have to be centrally managed. All MSs should use the same software service.	
	AEO shall not be subject to risk analysis at all (and therefore no submission of pre-arrival/departure information is needed). The risk analysis provisions for AEO should be more clearly formulated.	

Article 4g

[Business should be informed about its status in the risk management. Any data relating to the economic operator and used in the creation of a risk profile, must be open to that operator to inspect and rebut at will.]	
Risk analysis, if applied systematically, should take not more than 15 minutes.	
There is a concern that the information will not be shared across all Member States but only between the transaction source and the destination.	
4g (5): It is suggested to replace the first phrase as follows: "Guidelines, which are based on impact assessment to EU based	

traders, may be issued…"	
The provisions of the guidelines should be inserted in IP.	
(2): how will risk assessment and rating be performed in these cases?	
(2) second indent: could give raise to extensive information exchange even where there is no concrete risk involved. Data protection and functionality should be given consideration.	
(3): if an economic operator is subject to an increased level of risk analysis and customs controls, there seems to be no defined time limits, and no legal means to appeal to such a decision.	
(4): why the word “may” is used?	
Assumption is made that the Community risk management system will enable business process management software to make use of the service whenever risk analysis is required.	
Community risk management should take into account specificities of companies, these special features shouldn't be elaborated on Commission level, due to lack of their knowledge on that level.	
Data protection shall be taken on board.	

Title I/IIA	**Authorized Economic Operators**	**(Articles 14a-14s**

Article 14a

	AEO certification should cover both Customs and Security and Safety, otherwise there will be an unnecessary duplication and confusion.	
	There could be 3 types of AEO certifications: security, procedures and controls.	
	Articles 444 and 445 of present IP contain simplifications for air sector. It is believed that it should not be necessary to be an AEO for them in order to operate these simplifications.	
	Any company which already meets the requirements under Regulation 2320/2002 should automatically be approved as an AEO for security and safety purposes.	
	Certified customs agents should be given automatic AEO status.	
	Postal operators need a specific type of AEO Certificate (Security and Safety) which would take into account the reality of existing data exchange procedures.	
	It is hoped that the use of already existing authorisations for simplifications will not be subject to an AEO status.	

	Is it possible to have an AEO-Certificate Customs recognised in one country, and AEO Certificate Security recognised in others?	

Article 14b

	14b (2): As many companies, especially SMEs, typically centralise the accounts function and data, but keep operational files at the local branch level for operational reasons, it will be difficult to comply with the criteria of "central point of access to all information".	
	14b (3): the requirement of additional information contradicts to 14b (1). Instead of "additional information" the word "clarification" shall be used. Instead of "customs authorities" the term "the competent customs authority" shall be used. The paragraph is formulated in such a way which could give possibility to the customs authorities to prolong indefinitely the application.	
	There is no reference to the possibility for applications to be made by a group of companies, or applications to be made in one country for multiple countries. This would be essential for multinational companies.	
	It can not be seen from this article how the access to main accounts will be performed.	

	Public standards should be ensured by customs authorities.	
	Can a principal headquartered in Switzerland with branches in EU ask for AEO status in SW or in DE?	
	(2): this provision of giving access to all information is too comprehensive. Only access to customs or AEO relevant information should be permitted. The access to the applicant's data shall be made in a secured environment/way: on line access from this point of view should not be relevant; companies not offering this solution to Customs should not be refused simply by virtue of the security considerations.	
	The time frame of access should be specified.	
	The data received should not be transmitted to other authorities including the Commission, without express approval from the side of the economic operator.	

Article 14c

	It is unacceptable to give direct access to all IT information to customs authorities for reasons of data security	
	It is a discrimination according to which AEO status can be given only to those operators who have main accounts in an EU Member	

	State. Bilateral agreement should be concluded in order to avoid this.	
	The provision concerning main accounts needs clarification. Main accounts in US and accessibility in the Netherlands – is this OK?	
	Main accounts are not relevant for Customs.	

Article 14d

	"Penal proceedings" should be replaced by "criminal proceedings" or "criminal convictions". Penalties in the form of fines should not be included here. Possible suggested solution instead of "is subject to penal proceedings following an irregularity": "*has been convicted under criminal proceedings and for which no appeal is pending*".	
	Compliance should be defined in such a way as to take into consideration the fact that almost all companies have been faced in their life with non-compliance because of minor irregularities.	
	There are more expressions in this article which need to be further defined (“necessary information”, “incorrect information”, “irregularity”…)	

	In case of irregularity, does this apply before the proceeding is over? Moreover, penal and civil proceedings might differ across Member States.	
	Second indent: “reasonable” timeframe should be added.	
	Before refusal, authorities shall contact the applicant to clear up the situation if needed. After refusal, appeal shall be possible. Within 30 days authorities must respond.	

Article 14e

	Norwegian, Swiss exporters should be given the possibility to qualify as AEO in order to maintain a smooth trade of goods into the Community.	
	First indent is poorly drafted, because few international agreements will mention either AEOs or even economic operators.	
	Are the beneficiaries of the 1947 Chicago Convention outside the scope of AEO status?	
	If an AEO-Security and safety is issued for a foreign operator,	

	does this mean that he is eligible for customs simplifications throughout the EU?	
	Second indent: the text should take account all relevant freight intermediaries in a generic fashion. It is suggested to replace wording with "*transport operator*".	
	Non-EU railways (such as the Swiss railway SBB and BLS Lotschbergbahn) should be given the possibility of giving AEO status.	

Article 14f

	The criteria of compliance for an applicant who has been established for less than 3 years should be as detailed as possible, in order to guarantee maximum harmonisation and level playing field among all operators.	
	It is not clear which criteria in articles 14f, 14g and 14h apply to which type of certificates? The use of expressions like "appropriate" and "applicable" is unclear. "Appropriate record of compliance" is poorly drafted, because a larger importer with 99,8% accuracy could make failure: 4000 incorrect entries against 2 million declarations per year. Whereas smaller importer with only 1000 declarations per year could make errors only on 2 entries per year.	

	Compliance should mean only non-existence of proven customs irregularities.	
	Compliance should not include non-related taxation matters.	
	"and/or fiscally" is poorly drafted, because it means all or either of the options apply. Thus, a good fiscal record can outscore a poor customs compliance record. "Customs and fiscal compliance" needs further to be defined.	
	"fiscal compliance" needs geographical definition: national?	
	It is not understood what is considered non-compliant. How it might work in case the non-compliance is solved with the authorities through a mutual agreement?	
	The second indent is unclear, in the view of the complexity of global trading organisations.	
	An incorrect use of commodity code can be seen already as breach of the obligation.	
	According to this article one late filing means that the applicant is not compliant. This is not acceptable.	
	In a constantly and quickly changing global business environment, 1 year should be enough.	

Article 14g

	No European company could meet the criteria described in this Article.	
	Ranking system similar to Stairsec, incl. smart containers provision, should be considered.	
	Reciprocity should be envisaged with C-TPAT.	
	The list is too long: will customs authorities be able to go through all the provisions?	
	Only very few SMEs will be able to comply with the provisions. Much depends on the precise interpretation.	
	Linkages to C-TPAT should be considered.	
	It should be considered that railways already meet the criteria in this article by virtue of simplified railway procedures.	
	14g c): the use of the expression "track and trace of goods" is not clear what is meant. It could be understood to the detriment of SMEs. Different systems within the company are not interoperated, f.e. logistical system with finance/controlling system.	
	(b): How the access needs be granted? Online access should not be the only way because of data security	

	reasons. It is proposed also to add “as far as customs and fiscal purposes are concerned”. Access to in-company data should be restricted to minimum, based on strict confidentiality or data protection.	
	(d): It is proposed to add: “only when necessary”. The necessity of this provision is not understood.	
	(e) and (g): not clear at all. The criteria are already fulfilled by accurate book-keeping.	
	How will the customs authorities check (a)-(i)?	
	(h): Awareness rising should be judged in a reasonable manner, it should include for instance material posted on intranet. Awareness is already in place in the European companies. What is the exact criterion here? The formulation is too vague.	

Article 14h

	No European company could meet the criterion in this Article.	
	In certain MS, solvency can be proved through citizenship. This approach should be followed in EU.	
	It is not possible to provide evidence about being solvent in the future. This provision should be deleted.	
	Public information on the parent company's solvency should be enough. Legal and practical difficulties could arise if parent company is established outside EU.	
	Solvency should only be the case for those situations where fiscal issues are involved.	

Article 14i

	The criteria are similar to those of the US. This is a wrong approach for European standards and environment.	
	The criteria are too much costly and burdensome, especially for SME.	
	Will customs authorities have security experts, is this feasible?	

	14i (f): the criterion mentioned under this point is far from being clear. Account should be taken of commercial confidentiality and current commercial practise. Should it be required that the suppliers and customers of an AEO shall also have to obtain an AEO status?	
	(a): this criteria has nothing to do with the transport of goods.	
	Provision should be made to apply the principle of "equivalence", for example: regulated agent/known shipper regimes; ISPS/SOLAS; railway safety certificates etc.	
	Equivalence with ISO standards should be envisaged. A lot of companies already have in their internal organisation such standards, including regular external audits.	
	14i (2): wording should be replaced by "transport operator"	
	14i (1) (a): it is proposed to add “relevant” buildings.	
	14i (g): It can be in contrast with constitutional law or other pieces of legislation. Also, from practical point of view, this provision is far from being possible to be implemented. This provision assumes that employees of AEO will do the physical handling of goods; but the trend is increasingly for this sort of work to be outsourced to a third party.	

	14i (h): as commented on article 14g (h). Normal European companies have no knowledge in this field.	
	It will be difficult for SMEs to implement the criteria.	
	The quantity of required data is oversized. The requirements need too much investment (f.ex. screening equipment).	
	The criteria should be identically applied in all MS.	
	(e): It should be clarified that it refers only to those goods which are subject to such restrictions on the basis of the law in force.	

Article 14j

	It is not clear whether the Guidelines are the most appropriate instrument to guarantee harmonised implementation. They have no legal basis. It is suggested to put the guidelines in the Annex of IP.	
	Will the Guidelines also be recognised by EU if applied by a third country?	
	Nothing is mentioned on existing authorisations and status, whether they will stay in place and how they will be considered.	

	Existing authorisations should not be affected; this should be explicitly stated in the IP.	

Article 14k

	The applicant should also be involved in the consultation process, otherwise it could be possible that Member States with their own agendas try to block certain companies from obtaining AEO status.	
	The timeframes in this article are too ambitious.	
	The term "established": does it mean establishment for tax purposes?	
	(2): does this include information on "fiscal" compliance in that country? If not, why? If yes, how will Customs coordinate with all other fiscal authorities in the timescale envisaged?	

Article 14l

	There should be a definition of "recognised professional person". Suggested wording: "…or accredited certification body".	
	The word "accept" should be replaced by "request".	

	It is recommended to insert "and at its own cost" between "responsibility" and "evidence".	
	How will the customs authority of the issuing Member State examine whether the conditions and criteria for AEO status are met?	
	Recognised professional person: can it be an external/internal accountant, lawyer or a customs manager?	

Article 14m

	Customs representatives should be given AEO status automatically.	
	14m (2): It is important that the authorities should comply with the 60 days deadline of issuing a certificate. There should be no need for a further extension of 30 days. The 60 day period is too long. According to other comments, the timeframe is too long, as well as in article 14o (1).	
	European Airlines, with an average of 40 locations throughout Europe, will they be able to be given certificates within 60 days?	

	14m (2): It is recommended that companies seeking authorisation should be entitled to make their application before the regulation is implemented, thus allowing companies to achieve authorisation at the time the regulation is actually implemented.	
	14m (3): does this mean that an existing user of the customs simplifications who decides not to apply for AEO status can maintain the simplifications indefinitely? An importer who wishes to use simplifications he does not currently have, but who does not wish to become AEO, will be granted the same facility to use such simplifications as an existing user who is not an AEO? An AEO whose certificate is withdrawn will be treated the same as one who has never qualified as AEO, and is nevertheless allowed to use the simplifications?	
	14m (3): It is presumed that any decision concerning rejection of an application can be appealed in accordance with the framework provisions of the Community Customs Code.	
	The customs authorities should be obliged to provide reasons for refusing the status.	

Article 14o

	10 days is too much long, the necessity of it is not understood.	
	14o (6) should be deleted, because it makes the economic operators victims of a situation which is beyond their control. If it will not be deleted, a compensation for loss of business must be granted for the period the companies were deprived of their prerogative. A proposed change: to insert “other than for reasons that were not the responsibility of the holder of the authorisation” between “paragraph 3” and “it”. Furthermore, it is not mentioned, that the operator should be informed about the fact that he has lost the status.	
	14o (3): This provision is not understandable. Can a MS Customs impose a limitation on the geographical scope of the Certificate?	
	14o (4): Comparable standards (ISO 9001) normally require surveillance audits every year with more rigorous certification audits every 3 years. Other opinions stress the need for a 5 year re-assessment.	
	The way/procedure of re-assessment shall be that of normal customs controls.	
	Can the re-assessment be done by the "recognised professional person"?	

Article 14p

	The mere fact of receiving information of an irregularity cannot lead to a suspension in the same way as the information on a filed criminal offence. Presumption of innocence must be respected.	
	Account should be taken of "innocent error" and unintentional mistake. The words "irregularity" and "serious irregularity" are too vague.	
	Any decision of suspension of an AEO status, especially on the mere receipt of information on a criminal offence or an irregularity, should be subject to appeal on the part of the economic operator concerned.	
	Suspension should only take place if the matter of concern has not been satisfactorily regularised. Otherwise it serves as a sanction and it is unfair in those situations when there is a requirement to change a computer system very rapidly at customs behest..	
	It is not balanced to give a company a determined period in which it has to respond or show evidence, given the significance of AEO status. (2) should be changed to "which shall not be less then 30 days." Corrective measures should be interpreted in such a way as to take into account appeal procedures if the operator feels the administration was incorrect in a decision (f.ex. classification of	

	goods).	
	(4): Who has the burden of proof? How this will be evaluated?	
	14p (6): In order to safeguard level playing field among EU operators, it is suggested to replace the word "can" by "shall". There is no reason for leaving it to the discretion of the Member States whether or not to accept evidence. If necessary, it must be logical to give the AEO more time before a possible withdrawal takes place.	
	The provision would mean that AEO-Customs are disadvantageously affected in comparison to non-AEO having simplification authorizations.	
	If it takes a period of 10 days to initiate approval after it has been granted, the suspension shall have a 10-day cooling-off period.	

Article 14q

	If an AEO status is revoked, which authorities can the trader appeal to – would it be the competent customs authority? Some reference to AEO specific appeal mechanism needs to be made.	

	The withdrawal shall be reasoned.	
	14q (2) is too punitive. "*Within 3 months from the date of withdrawal*" is suggested. Other suggestions: "*…until proof has been provided to the satisfaction of the customs authorities that the problem which resulted in the withdrawal of the status has been corrected*."	
	The differences in the severity of the offences are not taken into account. Definition is lacking for "serious irregularities".	
	3 years seems to be too disproportionate in certain cases. Provisional authorisations could be granted for those traders already authorised for special procedures that required similar authorisation criteria.	
	AEO runs the risk of losing its AEO status for the whole of MS locations provided one MS decides to withdraw it. This is especially detrimental to airlines, which usually have 40 locations in EU.	
	Large multi nationals will not want to have a certificate issued in one MS, as this might result in the whole AEO operation throughout Europe to be withdrawn.	
	If an AEO asks to withdraw its status, does this mean withdrawal	

	in one MS or in all? Can an AEO request to have the certificate changed, or is it a case of withdrawing and then re-applying for a changed certificate?	

Article 14r

	It should be considered that railways already meet the condition of information giving, by virtue of the simplified railway procedures.	
	14r (1): This paragraph is formulated in such an unclear way, which could lead to a very burdensome interpretation. Only significant structural changes should be the case for information.	
	14r (2): "all relevant information" is not clear. Confusion should be avoided in order to ensure that AEO status is actually recognised throughout the EU.	
	Data should be held centrally by COM with MSs responsible for the AEO registered under their jurisdiction.	

Article 14s

	For an efficient supply chain management it is necessary that economic operators are able to consult the database as well, taking	

	due account of issues related to confidentiality.	
	The AEO should be given insight into its own data and risk level.	

Title I/VI	**Introduction of goods into the Customs territory**	**(Articles 181b-184, 186-187a)**

Article 181b

	AEO – Security and safety should be given exemption. Or, as an alternative, global declarations with monthly supplementary declarations should be submitted by AEO.	
	Exemption is needed for road transports carried out in accordance with the TIR Convention; at least until the TIR system is computerised.	
	The trade with Norway, Iceland and Lichtenstein and trade within enclaves must be excluded because EEA-EFTA countries are part of the EU Single Market for all industrial products. Besides the Nordic Customs Cooperation Agreement allows to exercise legal power on behalf of the neighbouring states.	
	Air cargo should not be subject to security checks because security controls have already been effectuated on the basis of Civil Aviation Code.	
	Means of transport as returned goods, used temporarily in the EU, need exemption.	
	Railway is paper based even in simplified procedures.	

	At entry, CIM notes are submitted at the place of destination, art. 421 of IP. Consideration should be given to NCTS-Rail project.	
	It is impossible for Postal Operators to meet the summary declaration requirements and the UPU rules at the same time. Goods other than letters, postcards and printed matter should benefit from the exception as well because they are forwarded under the same UPU rules.	

Article 183

	The article fails to specify the format or syntax in which the data in Annex 30A should be submitted.	
	A significant amount of information is already provided by the NCTS, or ECS: unnecessary duplication should be avoided.	
	The use of loading lists will encourage the use of paper. Other comment: loading lists, if contain all the data needed, shall be accepted.	
	All customs related movements are organised by the forwarder/consignor and the carrier “moves” only the consignment from one point to another. Moreover, most carriers are unable to	

	use data processing techniques which make it impossible to keep time limits.	
	Transport operators are not responsible for the contents of baggage, containers etc. Their responsibility should be limited to those described in the commercial contracts. Other comments: it is the international transport operator who has contacts to the consignor; therefore it is him who is responsible for the pre-information.	
	ATA consignments in travellers' luggage need exemption.	
	The summary declaration according to Annex 30A is based on SAD, but the data required can not be extracted from the international CIM consignment note.	
	Provisions should be inserted to address the situation of possible incorrect or missing data supply.	
	As national administrations require the summary declaration data in their own language, the declarants shall always submit the declarations in multiple way.	

Article 183a

	Trade deeply regrets that the AEO Safety and Security will not benefit from a substantial reduction of data to be supplied in the context of a security summary declaration. There are no real advantages in the first paragraph of this article.	
	AEO-Security and Safety shall be given a total exemption from customs control, subject to periodic audits.	

Article 183b

	[There is disparity with the so-called non-paper.]	
	The 24h rule should be limited to intercontinental container shipping, because it is impossible to imply that rule for regional shipping transport which can have a transportation time of only 4 hours. The containerised short sea cargoes will also face difficulties, because of last minute changes to type of fish and/or cargo volume.	
	Assuming the right resource is in place, meaning an IT control system with real-time processing to rapidly profile goods, a minimum of 2 hours prior to carriage should be sufficient, for all	

	modes of transport.	
	To be fully competitive with road transport, short-sea shipping should not to be burdened with more administrative requirements that land transport.	
	Ferry services: onus for providing the summary declaration for ferries should lie with the haulier, not the ferry company. Besides, short sea and ferry services may have to make considerable changes to their administrative systems. It must be allowed sufficient time to comply with the new requirements.	
	European Sea Ports Organisation favours the option of (1)(a), second indent. German Ship Owners Association and German Ship Suppliers favour the first indent. Other comments from non-ship sectors favour the option which gives less time in the end (first indent).	
	Bulk services should be exempted from the 24h reporting system taking into account their way of operating and the specific character of the cargo involved.	
	With regard to the 24h rule, a solution must be found for the special status that ship suppliers have. If the provision remains unchanged the ship supplying industry will face great difficulties. due to the special "just-in-time" delivery nature of ship supplying.	
	The imposition of submitting summary declaration before	

	departure or arrival constitutes an additional cost to traders.	
	For short air cargo special time limit should be introduced.	
	Air freight industry should be given 1 hour timeframe.	
	Express carrier service needs 1 hour time limit, due to specific business and operational requirements.	
	Industry sectors with distribution centres close to airports or harbours will suffer from 2 hour time limit.	
	Time limits should be adjusted to air passenger flight reservation modification times and to aircraft changes.	
	Spare parts in emergency cases, just in time operations need facilitation.	
	For railways the 2 hour time limit is not suitable. Railway has specific logistical system for the wagons loading-unloading, which hinders pre-declarations. Different external borders should be considered according to their own characteristics. SMGS/CIM at the polish external border can not be regarded in the same way as borders with Switzerland where Common Transit provisions apply. At the eastern borders 2-4 hours prior declarati0on can not be fixed at all from the Russian neighbouring railway.	
	For road transport, the 4 hour time limit will cause difficulties	

	because the driver (being often the chef of the company) will have to submit the declaration by stopping the vehicle in an insecure environment.	
	Who and when shall submit the declaration in case of intermodal transport?	
	With neighbouring countries, special time-limits (=the time of departure from the origin country) shall be introduced.	
	All time limits should be in accordance with the transport routes and ways from the last exit points outside EU.	
	All time limits shall be in harmony with those adopted by US.	
	Time limit: data should be provided at the time of departure of the mode of transport from the place of departure in the third country of export.	
	For AEO, special time limits should be adopted, at least 50% reduction is desirable. AEO is well known to the customs authorities.	
	It is not indicated, which party has the responsibility to lodge the summary declaration. It is important top ensure that "authorised third parties" (authorised by their principals, usually, but not always, EU-based importers and exporters) are permitted to make such declarations.	
	The time frame of 2 hours is not performable in cases of passenger	

	flights, for practical reasons of timeframes of purchasing the tickets. It makes impossiboe to load cargo for these flights in the timeframes as it is today. Also, consideration should be given the changes in aircraft, which happens very often in, less than 2 hours before departure, and is dependent on final passenger volume etc.	

Article 183c

	183c (1): Any changes to the time limits by customs authorities should be notified to the economic operator in a timely fashion.	
	What will be the implications of international agreements for railways? Will there be delay at the entry station even if the time limit for submitting summary declaration will be reduced to zero?	
	183c (3): It should be possible to use a transit declaration as a summary declaration. Question: is an NCTS transit declaration submitted at the office of entry/departure 2 hours before presenting the goods considered as a summary declaration?	
	183c (1) (b): Can security checks be carried out in the country of export by a recognised professional person?	
	Consignments to/from “secure countries” should be taken into account.	

	Negotiations with enclaves and neighbouring countries about international agreements should be a high priority. Mutual recognition of customs controls and of AEO status should be envisaged.	
	Use of transit declarations: this could result in additional declaration. Can this only happen when the transit movement began outside the Community customs territory, or would it apply to all cases? Is a reform of NCTS envisaged?	

Article 183d

83d (1): the office of entry is not always known to railways when receiving goods from client in a third country. In one railway unit there can be goods for which the summary declaration should be submitted at different entry offices, as well as Community good, and also non-Community goods for which there is no obligation to submit summary declaration at the entry office. The risk analysis would result in delays which is not acceptable.	
Risk analysis in the first port of arrival (sea, air) shall not give rise to delays in the flights and scheduled routs.	
183d (3): The expression "reasonable time" should be defined more	

precisely, for the purposes of maximum harmonisation.	
For just in time systems, the authorities shall send the response within 15 minutes of the relevant information being made available indicating which shipments will require a physical examination.	
183d (2): Will this provision allow the balance of the volume to proceed?	
183d (2): this provision would cause to international railway significant delays.	
183d (2): Shall Community goods also be subject to summary declarations? The already existing railway simplifications for T2 internal transit involving EFTA should remain unchanged.	
183d (4): why is the requirement to submit an additional summary declaration, under an automated process? This can not be accepted.	
183d (4): English should be accepted as the reporting language in order to create a global standard on the data to be submitted.	
183d (4): This provisions reads as follows: in the case of combined shipments for multiple destinations within EU you have to file 2 summary declarations (one for the whole shipment and another for the part-shipment). This will mean double work for the importer. Industry should not be burdened with extra paperwork due to the fact that customs authorities do not yet have their IT framework in place.	
183d (4): For transhipments it should be recognized that fiscal/ other customs risks are not the same as for goods intended for EU.	

For aircraft, if calls are at more Community airports, what happen if a suspect consignment is detected at the first port of arrival but destined for another MS?	
(1) and (4) : double work should be avoided.	
Provisions should be in place for risk analysis to meet the situations of fall back.	

Article 186

	This is confusing with regard to the temporary storage. Once the goods have been entered into the records of an AEO, he should be able to move the goods anywhere in the EU without using the transit system. Is it the intention that EU wide temporary storage is to be allowed?	
	It is important that all MSs should develop the possibility of customs declarations serving as summary declaration.	

Article 187a

It is unclear, who is the person referred to in this article.	

Title I/VII	**Customs Declaration – Normal procedure**	**(Articles 201, 212, 216)**

Article 201

	This article does not provide for an import declaration to be lodged at the customs office responsible for supervising the place where the importer is established. This is an absolute requirement for the implementation of centralised clearance.	
	(2) we do not see in which cases this can happen.	

Article 212

	(1) second sub-paragraph: what would happen if a full declaration was lodged for the release of the goods at the first point of arrival, where the full declaration did not contain all the data required under Annex 30A. How could a company enter this data in their	

	customs system?	
	Annex 30A requires also a lot of logistical (carrier) detail which are usually not known to the importer.	
	It seems that Annex 30A includes data not required in terms of the new SAD. How will this be dealt with when a customs declaration is made?	

Article 216

	What would happen if a full declaration was lodged for the release of the goods at the first point of arrival, where the full declaration did not contain all the data required under Annex 30A. How could a company enter this data in their customs system?	
	Annex 30A also requires a lot of logistical detail (carrier) which is not known to the importer.	
	The US data requirements for AAMS are adequate to complete risk analysis.	

Title I/IX	**Simplified procedures**	**(Articles 254, 260-262, 264, 266, 268, 270, 271, 275, 279, 280, 282, 285, 286, 288-289)**

Article 254

	The data set should be the WCO data set (carriers list) or the 11 elements used by the US.	
	Annex 30A also requires a lot of logistical details (carrier) which is knot known to the importer.	

Article 260

	(2): second indent should be more precise, because CIM consignment note serves as a customs declaration for transit: "- an administrative or commercial/transport document, accompanied by a request for release for free circulation".	

Article 275

	(1) shall not be applicable to ATA movements.	

Article 260

	The data set should be the WCO data set or the 11 elements used by the US.	
	Annex 30A also requires a lot of logistical details (carrier) which is knot known to the declarant.	

Article 262

	Possibility should be given as to the plain description of goods in simplified procedures.	

Article 280

	The data set should be the WCO data set or the 11 elements used by the US.	
	This article shall not be applicable to ATA movements.	

Article 282

	The data set should be the WCO data set or the 11 elements used by the US	
	According to the draft, there will be no simplifications at all, the existing simplification will cease to exist.	
	Data will be submitted in a duplicated way, if looking to Annex 30A.	

Article 285

	Local clearance will cease to exist. This will harm exportations.	
	It seems to be contradictory that this Article implies facilitation for	

	an authorised exporter, but then demands that full data is provided for each shipment in the context of ECS and for risk analysis for security purposes.	
	References in this article need to be checked.	
	AEO should not be obliged for single declarations however should be authorised for a global notification with subsequent periodic declaration at month end.	
	In the accompanying document it should be sufficient for AEO to refer to the simplification, because AEO is in the EU databank. In certain cases, transit normal procedure, the transit can only be after transmitting the MRN.	

Article 286

We assume that the data required for export is to be submitted electronically, but this article perpetuates the use of paper. Why is this the case?	
AEO should not be obliged for single declarations however should be authorised for a global notification with subsequent periodic declaration at month end.	
References in this article shall be checked.	

(3) diminishes simplification in article 285(2).	

Article 288

It seems to be contradictory that this Article implies facilitation for an authorised exporter, but then demands that full data is provided for each shipment in the context of ECS and for risk analysis for security purposes.	
AEO should not be obliged for single declarations however should be authorised for a global notification with subsequent periodic declaration at month end.	
References in this article shall be checked.	

Article 289

	National simplifications will cease to be in existence. This is not acceptable.	

Title II/II	**Customs status of goods and transit**	**(Articles 313b, 367-368, 373)**

Articles all

	The simplifications are not enough. A complete exemption from Annex 30A should be recognised.	

Title II/IV	Implementing provisions relating to export	(Articles 791-797)

Article 791a

	AEO – Security and safety should be given exemption. Or, as an alternative, global declarations with monthly supplementary declarations should be submitted by AEO.	
	Exemption is needed for road transports in accordance with the TIR Convention; at least until the TIR system is computerised.	
	It is impossible for Postal Operators to meet the summary declaration requirements and the UPU rules at the same time. Goods other than letters, postcards and printed matter should benefit from the exception as well because they are forwarded under the same UPU rules.	
	The trade with Norway, Iceland and Lichtenstein and trade within enclaves must be excluded because EEA-EFTA countries are part of the EU Single Market for all industrial products. Besides the Nordic Customs Cooperation Agreement allows to exercise legal power on behalf of the neighbouring states.	
	Exemption is needed for those goods which are not subject to customs duties and to customs formalities on the basis of international agreements (for example: office furniture of railway, goods when transferring place of residence).	

	Airlines acting as exporters may have difficulty with providing a pre-declaration for those urgent goods which require immediate exportation for operations like human organs, life-saving drugs, as well as aircraft spare parts for aircraft on ground	
	Company documents on a diskette of CD seem not to be included here. How can this be addressed?	
	Express carriers would rather give information on a batch than on movement basis. 1 hour before departure the majority of the data elements can be provided, but still certain elements may only become available in the last few minutes prior to departure.	

Article 791b

	Risk analysis shall not be carried out for goods which are subject to export licenses/authorisations, because they are already checked before.	
	What is “reasonable time”?	
	Just in time operations need a 15 minute response from customs authorities after receiving the pre-information.	
	Export consignments will be delayed at major offices of exit, especially in case of consolidated consignments, because customs	

	office of exit will have to check the declarations for all partial consignments which constitute a given consolidation. Today, in various MS, transport papers are the primary evidence of export for VAT purposes.	
	ATA consignments in travellers luggage need exemption.	

Article 791c

	A time limit of 2 hours does not suit the just in time systems which dictates the commercial environment today. 2 hours would be detrimental to the export. 1 hour is requested instead. It is incumbent on customs authorities throughout EU to operate risk analysis systems which can meet the demands of business to allow goods to be exported in a timely manner.	
	At least 50% reduction of time limits is needed for AEO.	
	Short air cargo needs special time limit.	
	Air supplies need specific time limits.	
	Industry sectors with distribution centres close to airports or harbours need specific time limit.	

	Express carrier services need a time limit of 1 hour, due to specific operational and business procedures.	
	Time limits should be in accordance with the transport routes and times from the last point of departure within the EU to the customs office of exit and all documents to be confirmed by customs should be confirmed by the office of exit.	
	How will an air carrier ascertain that the goods it receives from the exporter have been pre-declared within the timescales set down, without access to either a paper document or an electronic report? How will an air carrier be involved in the electronic process of the pre-declaration?	
	The very nature of the air cargo carriers operations demands changes to aircraft loads, sometimes at a very short notice. This should be recognised.	
	Air catering goods shall be given special consideration, by virtue of the fact that the final volume of passengers is not known 2 hours before departure. Goods purchased on board should also be taken special consideration. These articles finally belong to the passenger.	

Article 791d

	Negotiations with neighbouring countries must be a priority, in order to reach in practical terms exemption.	
	(3): It is proposed to add that the customs office of exit, when different from the office of export, may carry out an additional risk analysis only when they have received additional information which requires a new risk analysis. The risk is that customs authorities in different Member States applying different criteria, may decide not to accept systematically risk analysis carried out in the other Member State. Risk analysis at the point of exit is superfluous.	
	Every customs office could set its own time limits for risk analysis, therefore article 791d(2) needs to be clarified.	

Article 791e

	Trade regrets that the AEO Safety and Security will not benefit from a substantial reduction of data to be supplied in the context of a security summary declaration. AEO should be completely excluded from the summary	

	declaration requirements.	

Article 792

	It is possible to secure paper documentation and embed additional information into the machine readable printouts. Connection is required to barcode generators.	

Article 793

	793 (3) (a) introduces a disparity in treatment between different categories of economic operators in the freight intermediary sector, because freight forwarders and logistic service providers are excluded which is unacceptable, as they also move goods under a single transport contract. Besides, inland ports are excluded, and there is no definition of "express operators". For this reason, the following is proposed: "*The customs office of exit shall be: in the case of goods carried by road, rail, post, air, sea or intermodal techniques, the customs office competent for the place where the goods are taken over, under a single transport contract, for transport out of the customs territory of the Community*."	
	In 793 (3) and (4) it is mentioned "the physical departure of	

	goods", whereas under 796e it is mentioned "the physical exit of goods". Is there a special reason for this?	
	793 (7): In the case of air transports, goods are often offloaded or replaced at the very least minute. Although there is a possibility to amend the particulars of the summary declaration after it has been lodged, however, there is a fear that this will be problematic when the summary declaration or the export declaration is lodged by the trader or his representative. In this case, which party will be held liable for the accuracy of the information provided?	
	Copy 3 of SAD as the proof of exportation is questioned by a decision in France which modified the requirements for VAT data at exportation.	
	Paper-based solutions are envisaged which is not acceptable. It is necessary to conform the provisions with the timing foreseen by the e-customs system.	

Article 795

	Will this – mutates mutandis – apply to the summary declaration as meant under 182c of Code in case such summary declaration was not made before embarkation of goods with Community status within intra-Community trade?	

Article 796b

	The ECS system is supposed to be an electronic system, yet there are continuous references to paper documents.	
	The accompanying document should be given the possibility to be pointed out by the system of the declarant.	

Title II/V	**Other customs-approved treatments or uses**	**(Articles 806, 811, 814, 841-843)**

Article 842a

	Does this refer to goods with Community status shipped between Community ports within intra-Community trade?	
	Goods other than letters, postcards and printed matter should benefit from the exception as well because they are forwarded under the same UPU rules.	

Article 842b

	(3): Reference to Annex 30A should be deleted.	

Annexes		

Annex 1

	UN Layout Key form would be easier for traders to use.	
	The forms should be implemented as e-documents (which would require e-stamp and e-signature).	
	"Applicant" misleading, as individuals do not apply. Box14 Border crossing is irrelevant to an AEO application.	

Annex 30A/security and safety data sets

	The dataset exceeds the dataset adopted by the WCO.	
	There is discrepancy with the non-paper.	
	It is recommended to use only the 11 data elements used by the US, for air, vessel and truck transports; also with regard to the simplified procedures.	
	Summary declaration should be kept as close to existing transport documents as possible (TIR, ATA, CMR, Airway Bill etc).	

	It is difficult to see the real need for some information that is described in the Annex.	
	The data requirement for pre-arrival and for pre-departure information is not the same. A standards list of data would be more understandable.	
	The vast amount of data for the security summary declaration raises the issue of liability for the provision of the data and fro the accuracy of the data provided. These provisions are missing from the draft. The owner of the data can be responsible for their accuracy.	
	There is no provision to address the problem related to data confidentiality in cases where data have to be passed on from one operator to another.	
	Bulk and non-containerised cargoes are homogenous, and there is no sense for a very detailed information concerning these shipments. The data requirements in Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system should be sufficient. Dir. 2002/59/EC reporting system shall be integrated into the draft.	
	There is a considerable difference between the data elements required and those which are used in the TIR Carnet and CMR consignment note. The mandatory use of HS code creates practical and legal problem	

	for TIR operations. It is suggested that transit data corresponding to the goods manifest of the TIR Carnet is sufficient for the purposes of pre-arrival and pre-departure declarations.	
	Ship suppliers should be granted the use of generic numbers for small quantity multi-item ship supply consignments. To allow the use of one generic number for technical goods and one generic number for non technical goods. Sensitive products (like tobacco, alcoholic drinks) are designated by CN codes.	
	Air carriers do not currently hold in their electronic systems many of the data elements now required. In addition, some of these elements are not required to be provided to the carrier as part of international standards. The resulting difficulties will result in goods being diverted to other modes of transport or outside EU. Of particular concern are: “Freight costs”, “Harmonised Shipment Code” and the value of the goods. US, Australia, Canada took the view that it is more appropriate to receive such data from the importer/exporter.	
	The requirement of supplying the HS code give rise to both practical and legal problems which was recognised by WCO when drafting the security standards. The goods description as it exists in the TIR Carnet and in NCTS shall be accepted.	
	There seems to be no logic in requiring both the goods description	

	and the commodity code.	
	The 10-digit TARIC code at import would be more demanding than the normal procedures.	
	A standard length classification code of 4 digits for pre-arrival and for pre-departure would be more appropriate. Other comments: 4 digit code is unacceptable for simple security purposes, it is not available. For exports 8 digits is not understandable for security purposes.	
	For mixed consignments, low value consignments, will the classification simplifications already existing in the Code be permitted?	
	Data element "transport charges – method of payment" gives no added value, therefore it is superfluous.	
	A freight cost is commercial confidential information which must be deleted from the Annex, together with the currency code.	
	"Notify party at import" and "countries of routing" are not understandable.	
	"Goods item number" and "number of items" gives rise to problems for transport of groupage with many different commodities.	

	“Types and number of packages” are not relevant for security risk analysis.	
	"Countries of routing" are often changed by the carrier because of transport considerations.	
	"Conveyance reference number" is not appropriate for road transports.	
	“UN Dangerous Goods code” should be deleted.	
	UCRN should be deleted.	
	“Consignor”, “consignee” are loosely defined. "Consignee" causes problems at complex holdings structures.	
	“Shipping marks” are usually described as “C/A”.	
	The name of the carrier is not relevant because the transportation of cargo is very often carried out by many carriers in the chain.	
	"Net weight" , "shipping marks", "item number" "date of declaration", "procedure", "place of loading/unloading", "transport document number" and "identity and nationality of means of transport at border crossing"; these are data elements which are not relevant for security purposes.	
	The following elements are known only to carriers/forwarders, but not to AEO as importers and exporters: commodity code, notify party, transport charges method of payment, transport document	

	number, place of loading, of unloading, conveyance reference number, transport equipment identifier, identity and nationality of active means of transport crossing the border, date and time of arrival at first port, countries routing, first port of arrival.	
	Numerous data elements are not known at all at the time of pre-declaration.	
	There are discrepancies between data elements for summary and final import declaration.	
	Customs authorities should issue an undertaking certifying that the data will be used only for security purposes.	
	As to the simplified procedures data requirements: at the end, there are no simplifications! Especially: 10 digit TARIC code.	