Review of Accredited Operator Schemes

Centre for Customs and Excise Studies
Charles Sturt University

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Contents

Abbreviations and Acronyms

AACA	Accredited Air Cargo Agent
AAO	AQIS Authorised Officer
ABS	Australian Bureau of Statistics
ACBPS	Australian Customs and Border Protection Service
ACCI	Australian Chamber of Commerce and Industry
ACI	Advance Cargo Information
ACS	Australian Customs Service[1]
AEMIS	Australian Export Meat Inspection System
AEO	Authorised Economic Operator
AFIF	Australian Federation of International Forwarders
AIMSS	Airfreight Industry Minimum Security Standard
AIS	Automatic Identification Systems
AMIC	Australian Meat Industry Council
AMPC	Australian Meat Processor Corporation
ANU	Australian National University
AO	Authorised Operator/Accredited Operator
APEC	Asia-Pacific Economic Cooperation
APEO	Approved Economic Operator
AQIS	Australian Quarantine and Inspection Service
ASAF	Aviation Security Advisory Forum
ASIC	Aviation Security Identification Card
ATSA	Aviation Transport Security Act 2004
BAC	Biosecurity Advisory Council
BASC	Business Alliance for Secure Commerce
Blueprint	ACBPS Blueprint for Reform 2013-2018
CACP	Customs Accredited Clients Program (Zambia)
CAPEC	Conference of Asia Pacific Express Carriers
CBFCA	Customs Brokers and Forwarders Council of Australia
CBP	Customs and Border Protection
CBPNCC	Customs and Border Protection National Consultative Committee
CCES	Centre for Customs and Excise Studies, Charles Sturt University
CEO	Chief Executive Officer
Chicago Convention	Convention on International Civil Aviation
CLE	Centre for Law and Economics
CSA	Customs Self-Assessment (Canada)
CSI	Container Security Initiative
CSR	Continuous Synopsis Record

CTAG	Customs Trade Advisory Group
CTO	Cargo Terminal Operators
C-TPAT	Customs-Trade Partnership Against Terrorism (United States)
DAFF	Department of Agriculture, Fisheries and Forestry[2]
DAg	Department of Agriculture
DFAT	Department of Foreign Affairs and Trade
DIAC	Department of Immigration and Citizenship[3]
DIBP	Department of Immigration and Border Protection
DIRD	Department of Infrastructure and Regional Development
DIT	Department of Infrastructure and Transport[4]
EAC	East African Community
EACE	Enhanced Air Cargo Examination
EC	European Commission
ECA	Export Council of Australia
EU	European Union
FDA	Food and Drug Administration
FIATA	International Federation of Freight Forwarders Associations
FICA	Food Import Compliance Agreements
FTA	Free Trade Agreement
FSCS	Food Safety and Compliance System
GAO	United States Government Accountability Office
GHP	good hygienic practices
HACCP	Hazard Analysis Critical Control Point
ICA	Institute of Chartered Accountants
ICAO	International Civil Aviation Organization
ICC	Industry Consultative Committee
ICS	Integrated Cargo System
ILO	International Labour Organization
IMO	International Maritime Organization
ISF	Importer Security Filing
ISO	International Organization for Standardization
ISPS Code	International Ship and Port Facility Security Code
ISSC	International Ship Security Certificate
IT	Information Technology
KPI	Key Performance Indicators
LCA	Law Council of Australia
MISC	Maritime Security Identification Card
MISCF	Maritime Industry Security Consultative Forum
MOU	Memorandum of Understanding

MLA	Meat & Livestock Australia
MRA	Mutual Recognition Agreement
MTOFSA	Maritime Transport and Offshore Facilities Security Act 2003
MTSA	Maritime Transport Security Act 2003
NAFTA	North American Free Trade Agreement
OTS	Office of Transport Security
PIP	Partners in Protection (Canada)
PJCLE	Parliamentary Joint Committee on Law Enforcement
RACA	Regulated Air Cargo Agent
RCEP	Regional Comprehensive Economic Partnership
RFID	Radio Frequency Identification
RHIMSS	Road Haulage Industry Minimum Security Standard
RICM	Regional Industry Consultative Meeting
RIS	Regulation Impact Statement
RSS	Regulated Shipper Scheme
SAFE Framework	WCO SAFE Framework of Standards to Secure & Facilitate Global Trade
SAL	Shipping Australia Limited
SAOC	Customs System of Reliable Operator (Argentina)
SCCP	APEC Sub-Committee on Customs Procedures
SES	Secure Exports Scheme (New Zealand)
SME	Small to Medium Enterprise
SOLAS	Safety of Life at Sea
STP	Secure Trade Partnership (Singapore)
TAC	Temporary Aircrew Card
TAPA	Transported Asset Protection Association
TIN	Trader Identification Number
TPP	Trans Pacific Partnership
TSP	Transport Security Program
USCBP	United States Customs and Border Protection
VIC	Visitor Identification Card
WCO	World Customs Organization
WTO	World Trade Organization

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[1] Previous name of the Australian Customs and Border Protection Service
[2] Previous name of the Australian Department of Agriculture
[3] Previous name of the Australian Department of Immigration and Border Protection
[4] Previous name of the Australian Department of Infrastructure and Regional Development

Executive Summary

Background

Governments throughout the world have for many years been developing and implementing initiatives that are designed to secure international supply chains from terrorist and other threats while facilitating legitimate trade. A number of these initiatives involve the accreditation of members of the international trading community that meet security and other regulatory requirements.

This research, commissioned by the Australian international trade and transport industry, reviews the various types of 'Accredited Operator' (AO) schemes that are currently in use and identifies options for their application in Australia. In doing so, it has sought the views of industry and has focused on ways to maximise the relevance of such schemes, minimise compliance costs and ensure against the possible erosion of Australian industry's competitive position in the global marketplace.

International initiatives

The SAFE Framework of Standards to Secure and Facilitate Global Trade (the SAFE Framework) which was introduced in 2005 by the World Customs Organization (WCO), identifies standards and principles for adoption by all WCO members. More than 160 countries have implemented, or have indicated their intention to implement the SAFE Framework, key elements of which are the concepts of Authorised Economic Operator (AEO) and Mutual Recognition.

An AEO is a member of the international trading community that is deemed to represent a low Customs risk and for whom greater levels of facilitation should be accorded. Where two countries have a Mutual Recognition Agreement (MRA) in place, an entity's AEO status is to be recognised by the customs administrations of both economies.

The International Civil Aviation Organization (ICAO) has independently developed global standards and recommended practices to ensure air cargo supply chain security. These have been enhanced in response to the ongoing threat of terrorist attacks, including the more recent air cargo security incidents originating from Yemen in 2010.

The ICAO Standards and Recommended Practices, contained in Annex 17 to the Convention on International Civil Aviation (Chicago Convention), include Regulated Agent and Known Shipper/Known Consignor programs. These programs are designed to prevent unlawful interference with aviation and include measures that require air cargo to be security cleared before it can be loaded on an aircraft.

In addition, international trade in food and food products is heavily regulated in terms of quality assurance in order to protect trade and market access, and for the purposes of biosecurity. Inspection, verification and certification programs are commonplace, as is the accreditation of entities involved in the supply chain, including importers, exporters and service providers.

The AO concept is also emerging as a component of Free Trade Agreement (FTA) negotiations, with many countries seeking to establish a framework within their FTAs to facilitate the negotiation of mutual recognition arrangements.

Most recently, the World Trade Organization (WTO) reached consensus in early December, 2013 on a text for a new Agreement on Trade Facilitation. This Agreement, which may come into effect as early as mid-2014, includes specific reference to AO schemes in the context of facilitating trade for those who meet specified criteria.

Australian Initiatives

In 2005 Australia committed to implement the principles of the SAFE Framework, but the Australian Customs and Border Protection Service (ACBPS) subsequently announced that it would not be introducing an AEO program. In June 2013, however (and following the commencement of the current study), ACBPS announced details of a Service-wide reform program that includes a focus on MRAs with trading partners to acknowledge AEO and trusted trader schemes, and the ACBPS executive has since signalled the proposed introduction of a Trusted Trader program.

The Office of Transport Security (OTS) already has in place measures that require air cargo to be security cleared before it can be loaded on an aircraft. These measures apply to businesses that security-clear, handle or make arrangements for the transport of air cargo, and are administered through the current Regulated Air Cargo Agent (RACA) and Accredited Air Cargo Agent (AACA) schemes. OTS was planning to introduce new export air cargo security requirements in 2014 that include the introduction of a Regulated Shipper Scheme (RSS) and Enhanced Air Cargo Examination (EACE), as well as changes to the rules governing RACAs. These initiatives have, however, been held in abeyance pending the development of further policy options.

The Department of Agriculture (DAg) ensures that exported food and food products meet Australian standards and overseas requirements by way of its export certification procedures, which include the registration of relevant entities in the supply chain. These arrangements are product- or sector-specific, with the inspection, verification and certification arrangements associated with the Export Meat Program being particularly stringent.

The Department of Foreign Affairs and Trade (DFAT) has also noted that concepts such as 'approved exporter', 'registered exporter' and 'registered operator' are impacting on discussions relating to the customs aspects of the Trans Pacific Partnership (TPP) and Regional Comprehensive Economic Partnership (RCEP).

Research Findings

The number of countries that are implementing AEO programs is increasing, and mutual recognition arrangements have triggered the introduction of customs risk targeting that differentiates between consignments of AEOs and those of non-AEOs. However, apart from the initiatives being undertaken by OTS and DAg, no process is in place for Australia's exporters to demonstrate that they have had their security practices validated by government and certified as meeting AEO-equivalent standards.

Consequently, while Australia is well advanced in its application of AO schemes in the air cargo and biosecurity environments, its failure to progress such an initiative in the customs context has the potential to disadvantage Australian exporters who are more likely to face delays and costs associated with inspections if their consignments are not recognised as low risk by the destination country. Similarly, opportunities to ease the regulatory compliance burden of trusted and compliant importers and service providers are less likely to be realised in the absence of customs-focused AO arrangements.

There is a clear expectation on the part of industry that product- and sector-specific AO arrangements will continue to be required by DAg; and that air cargo security reforms will be progressed by OTS in consultation with industry. There is also an expectation that some form of AEO scheme will be introduced, based on the statements made by ACBPS, both in its 'Blueprint for Reform 2013-2018' and in subsequent announcements.

The potential disadvantage to exporters of not having access to an AEO-type scheme is seen to be a clear driver to include exports in any customs-related AO arrangement, the focus of which should be supply chain security, which is a prerequisite to concluding any mutual recognition arrangement under the SAFE Framework. Equally, however, industry has indicated that such arrangements should extend to imports, with trade compliance being the principal criterion for accreditation. Recognising that ACBPS clearance procedures are generally efficient, the range of potential benefits identified by industry include measures designed to improve cash-flow, facilitate the resolution of queries and fast-track applications for formal rulings and decisions.

Those who see merit in an AEO-type scheme generally consider that it should be open to service providers as well as traders, noting that customs brokers, freight forwarders and other service providers are already included in the arrangements operated by OTS and by DAg. It has also been suggested that an 'authorised' service provider should be able to provide SMEs with a conduit into a recognised secure supply chain.

A key issue that has arisen during the course of the research is the scope for intra-agency recognition of an entity's AO status. For example, an agency's assessment of a trader that is seeking AO status should take into account the trader's existing accreditation with other agencies.

Conclusions

The research findings indicate a need for an AEO-type program in Australia, which is likely to be represented by the proposed ACBPS Trusted Trader program. The study concludes that the proposed program should be comprised of two elements - an export scheme having supply chain security as its principal focus, and an import scheme having trade compliance as its principal focus. Both could be open to traders and service providers, and membership of both should be voluntary. Participants in the export scheme would also need to demonstrate appropriate levels of trade compliance including accuracy of declarations and procurement of relevant permits, and ACBPS should similarly require importers to adhere to basic security requirements.

The development of two schemes provides an opportunity to phase in the Trusted Trader program, the more immediate requirement being the need to mitigate the risk of erosion of Australian exporters' competitive position in the global marketplace. Introducing an import scheme at a later date will also allow for further industry consultation on the detail of the import arrangements, and particularly the scope of benefits that may be provided to compliant members of the importing community.

The work already undertaken by OTS and DAg could be used as a model for developing the export scheme, and due to the advanced state of development of the air cargo security arrangements, it may be prudent to firstly implement the new arrangements for air cargo, and to subsequently expand the scheme to include sea cargo.

1. Background

For the past decade, government agencies throughout the world have been developing and implementing a range of initiatives that are designed to secure international supply chains from terrorist and other threats while facilitating legitimate trade. Several such initiatives focus on the concept of Accredited Operators (i.e. trusted members of the international trading community that are deemed to meet security and other regulatory requirements), the two principal schemes being those relating to Customs and to air cargo security.

National policies governing the international movement of goods – including security matters – invariably cut across the area of responsibility of a number of regulatory agencies. Typically, Trade has an interest in issues relating to market access; Customs is generally responsible for the administration and enforcement of controls relating to the cross-border movement of goods; Transport is concerned with the safety of the conveyances (vessels, aircraft, trucks, trains) that carry the goods as well as policy relating to the supporting infrastructure (ports, airports, highways, etc.); Immigration has an interest in the people who move the goods or accompany the goods (seafarers, passengers and crew); with other specialist agencies also having a role to play (e.g. phytosanitary, veterinary, hygiene, environment, waste, product safety, dangerous goods, etc.).

A contemporary method of managing compliance in these areas of regulatory responsibility is to work in collaboration or partnership with the private sector through the use of AO programs. For some border management agencies, the partnership concept is well established, and is widely acknowledged as a key foundation for trade facilitation. The effectiveness of such arrangements hinges on a working relationship between regulators and industry that reflects a mutual commitment to accountability and improving regulatory compliance.

Businesses that enter into such partnerships are generally required to demonstrate a history of providing accurate and timely information about their transactions, establish a good record of regulatory compliance, and demonstrate that their systems and procedures will ensure a continuation of their established compliance record. Generally, this requires them to open their operations to analysis by regulatory auditors and to advise the regulator of any changes to their systems or procedures that may impact on the initial assessment of their level of compliance.

On the other side of the partnership equation, regulatory authorities seek to create an environment in which companies can maximise their entitlements, and meet their obligations for trade compliance with minimal commercial impact. This necessitates providing companies with the means to achieve certainty and clarity in assessing their liabilities and entitlements and to allow them to conduct subsequent business without fear of additional regulatory burdens after the transaction is concluded and the opportunity to recover costs has passed. In other words, no unpleasant surprises.

In this context, the International Convention on the Simplification and Harmonization of Customs Procedures, as amended (Revised Kyoto Convention)[5] incorporates important concepts of contemporary compliance management, including a willingness to establish mutually beneficial partnerships between customs authorities and the private sector. Consistent with the cooperative, consultative approach which such arrangements are

intended to achieve, industry may be invited to play a major role in identifying the range of incentives that may be made available to trusted operators.

Preferential treatment for trusted operators often includes access to special regulatory procedures such as simplified or facilitated clearance with minimal inspections, exemptions from certain types of supporting documentation, more scope to self-assess, periodic reporting and access to procedures with economic benefits such as duty suspension arrangements. Fast-track treatment at the border, greater autonomy in port and terminal operations, and similar facilitative initiatives are also offered as potential incentives.

The Swedish Customs Stairway® program[6], one of the first partnership programs to be introduced, is a good example of this type of arrangement. The principal aim of the program is to provide Customs with a method of identifying those elements of the international supply chain that are compliant, which in turn allows Customs to focus its resources on potentially high-risk operators and hence, those consignments that do not form part of low risk-rated supply chains.

The Stairway® program and others that have followed reflect sound principles of risk management by seeking to identify low-risk members of the trading and transport community. Assessing the compliance levels of such entities assists regulators in determining where their resources should be directed. Put simply, such initiatives may be viewed as a way of reducing the size of the 'risk pie'.

The introduction of an industry partnership concept is therefore based on the premise that companies with a good record of compliance require less regulatory scrutiny than those with a history of poor compliance. A key element of the strategy seeks to provide highly compliant companies with some form of benefit and this applies equally to those AO programs that are designed to secure international supply chains from threats of terrorism.

Provided such outcomes can be achieved for the mutual benefit of both the regulator and the regulated entity, the partnership approach is likely to succeed. However, if the anticipated benefits fail to materialise for either one of the parties, the relationship is likely to sour, particularly when would-be participants make a significant investment in the regime for no apparent return. Given that one of the parties to such a partnership is a regulatory authority, it is hardly surprising to learn that the benefits which fail to materialise are generally to the detriment of industry.[7]

Due to the nature of the partnership concept, the associated schemes, including AEO, Known Shipper and some biosecurity programs, are voluntary. For those who choose not to participate, other methods of regulatory control may be applied, which inevitably involve increased levels of regulatory intervention and less scope for self-assessment. Some types of AO programs are, however, mandatory. These include certain agricultural export programs which require traders and service providers to demonstrate their compliance with regulatory standards as a prerequisite to their involvement in export activities.

2.   The Research Project

The research project is a review of the emerging 'Accredited Operator' (AO) concept which, internationally and locally, is being espoused by a number of regulatory agencies in the form of 'Regulated Shipper', 'Regulated Agent', 'Accredited Agent', 'Authorised Economic Operator', 'Approved Exporter', 'Registered Operator', etc. programs which have emerged as a result of international initiatives relating to supply chain security and trade facilitation. The research reviews the subject from a number of perspectives, including international initiatives, global responses, Australian Government responses, and implications for regulators and the business community.

The project has been conducted by the Centre for Customs and Excise Studies, Charles Sturt University. It has been funded through the Australian International Trade and Transport Industry Development Fund (AITTIDF), the objectives of which are to promote, support, advance and enhance projects that facilitate Australia's international trade with its trading partners, and that encourage more efficient international supply chain solutions. Project funding has been supported by the Customs Brokers and Forwarders Council of Australia Inc. (CBFCA), the Export Council of Australia (ECA), the Australian Federation of International Forwarders (AFIF), the Conference of Asia Pacific Express Carriers (CAPEC) and Shipping Australia Limited (SAL).

The purpose of the project is to develop an Australian international trade and transport industry position for presentation to Government on the various forms of AO schemes that are in place, under development, or being considered by Australian agencies. This includes recommendations on how such schemes should be progressed in order to guard against any possible erosion of the industry's competitive position in the global marketplace. In particular, the research seeks to identify options for maximising the relevance of such schemes, minimising compliance costs and ensuring that the Australian international trade and transport industry is able to compete on an equal footing with its overseas competitors, particularly when exporting to countries that have similar arrangements in place. In doing so, the project has focused on whole-of-government solutions for a whole-of-industry outcome.

3. Methodology

The project is comprised of three principal components. The first is a review of the AO landscape with a particular focus on AEO, including an examination of the broader international context and initiatives that have been or are being progressed in Australia. The second component is an examination of Australian business perspectives on the AO concept, including preferred options for Australian implementation. The third is an analysis of the first two components, with focus on current issues and future directions.

The research approach has been iterative, drawing on multiple types of data. The initial step was to conduct a desk-based study of the relevant literature and supporting documents. These include primary documents such as the WCO's SAFE Framework, the International Ship and Port Facility Security Code (ISPS Code), developed by the International Maritime Organization (IMO) and Annex 17 to the Chicago Convention, amongst others, as well as academic papers and commentaries published in academic journals or by relevant international and national organisations.

The initial desk-based review was followed by open and targeted focus groups, survey (see Annex 7) and interview-based research, the findings of which were used to further inform the initial review as well as provide the basis for the study's analysis and recommendations. Participants in the focus groups sessions and interviews were provided with background material that was designed to inform them of international trends, Australian initiatives and general implications for the industry (see Annex 8).

The general focus group sessions, which were held with interested parties from the Australian business community, were conducted in Brisbane, Sydney, Perth, Adelaide, Melbourne and Canberra. A total of 62 participated in the sessions, the majority of which represented customs brokers, freight forwarders and large to medium importers and exporters. Invitations to the focus group sessions were sent to members of CBFCA, ECA, AFIF, CAPEC and SAL by the relevant industry association.[8]

In addition, targeted focus groups included members of CBFCA, who were consulted during their annual conference,[9] members of the Customs Trade Advisory Group (CTAG), consulted during their November 2013 consultative meeting with ACBPS,[10] and members of the ECA Agribusiness Working Group who were consulted at their September 2013 meeting.[11] Interviews were also conducted with representatives of CBFCA, AFIF, ECA and the Australian Chamber of Commerce and Industry (ACCI).

As a follow-on from the focus groups, the researchers individually contacted ten businesses which expressed a particular interest in the study, some of which provided permission to be included as a case study in this document. These interviews were conducted either in person (four companies) or by phone (six companies). The purpose of this specific interview series was to provide an indicative illustration of how Australian businesses are exposed to regulatory procedures at home and overseas, any border-related impediments experienced in Australia and overseas, how AO arrangements may benefit and, if Australia were to introduce an AEO-type regime, the kind of benefits they would like to see included.

In total, consultations were held with 212 interested parties. Findings have been captured in summary documents, interview transcripts and in feedback survey responses for those who did not provide the researchers with feedback at the time of the consultations. The findings are included in the review and analysis.

Also, an interview series was conducted with representatives of relevant Australian Government agencies, including ACBPS, OTS, DAg and DFAT. The purpose of this series was to establish the respective agencies' position with regards to AO schemes, including existing programs and plans for the future. Interview findings have similarly been captured in summary documents and interview transcripts, and are reflected in the review and analysis.

All interviews with Australian businesses and government agencies were semi-structured. This interview method was chosen to allow the interviewees to speak freely and provide more detail about certain aspects of their business, which in turn provided a better insight for the researchers into their business operations. This interview method provided the researchers with information on issues about which they had no prior knowledge, and served to clarify issues that were of a more complex nature. It also allowed the interviewees to discuss matters of a sensitive nature which they did not wish to raise in a public forum.

Relevant parts of the Draft Report were circulated to Australian Government agency representatives and those who provided input by way of case studies to enable any further comment and to ensure the report was factually correct.[12] The complete Draft Report was then circulated to representatives of AITTIDF for review.

Two significant events impacted on the research project during the period of the study. First, the release of the ACBPS 'Blueprint for Reform 2013-2018' (Blueprint) in June 2013 and subsequent announcements by the ACBPS executive signalled the proposed introduction of some form of 'Trusted Trader' program in Australia. Second, a momentous Trade Facilitation Agreement, which includes specific reference to trade facilitation measures for 'Authorized Operators', was settled by WTO members at its Ninth Ministerial Conference in December 2013.

The former resulted in the need to revisit the line of enquiry with industry in relation to the customs-related issues, as the question of whether an AEO-type arrangement should be introduced by Customs was no longer of relevance. Consequently, the focus of the study shifted to an identification of the preferred features of such a scheme from an industry perspective.

4. International initiatives

4.1. 9/11 and the focus on supply chain security

The 11 September 2001 terrorist attacks on the World Trade Centre in New York and on the Pentagon have had a dramatic impact on the policy governing security in international logistics and supply chain management. Following the attacks, the US Government took immediate measures to stop all inbound air traffic into the US, and instituted very strict inspection procedures for both individuals and cargo at all land and sea entry points.[13] These measures had the almost immediate effect of bringing commercial international trade with the US to a virtual standstill. Over time, land, sea and air traffic resumed, but only in the face of strong pressure from many quarters, most notably the US Congress, to greatly increase inbound security into the US.

The US proceeded to introduce a series of legislative amendments aimed at ensuring that the inbound supply chain, in all modes, was as secure as possible. One of the first mandatory requirements imposed on supply chain operators was the advance reporting obligation for inbound cargo in all modes, the so-called 'Advance Manifest' reporting regime, requiring carriers to pre-notify US Customs and Border Protection (USCBP) about their cargo within prescribed timeframes prior to its arrival at a US port of entry. These requirements were later supplemented for maritime traffic by the Importer Security Filing (ISF) initiative, which is required to be undertaken at least 24 hours before loading a vessel departing for a US port (see also Annex 1).

Those members of the US business community dependent on international trade moved quickly to ensure that the political pressure for tighter control did not needlessly impair their international competitiveness. They worked closely with USCBP to demonstrate that the risk of terrorist activity in the international supply chain could be controlled – and in fact was being minimised – by a variety of existing security standards already in use by major importing companies. The dialogue between the US business community and USCBP led to the creation of a new voluntary partnership program, the Customs-Trade Partnership Against Terrorism (C-TPAT).[14] Under C-TPAT, companies whose internal policies, systems and procedures met strict standards designed to prevent terrorist tampering in the inbound supply chain were given a provisional low-risk status, which served to minimise regulatory impediments to their international trading activities.

Similar initiatives were established in other economies, generally motivated by the need to assure the US authorities that their shippers and supply chains were secure, thereby safeguarding continued access to the US market without extensive delays at US ports, airports and border crossings.

The WCO identified the need to develop international guidelines, based on the C-TPAT initiative, to provide its members with uniform strategies to secure and facilitate global trade. The resultant SAFE Framework was first published in 2005, with revisions in 2007, 2010 and 2012.[15] The SAFE Framework includes recommendations for advance cargo reporting and provides the international basis for the concepts of AEO and Mutual Recognition Agreements (MRA). This is discussed further in Section 4.4.

In the European Union (EU) security was added as a fast-track item to an ongoing policy program to radically overhaul the EU's customs environment – the so called Paperless Trade and Customs Environment.[16] The resulting Security Amendment to the Customs

Code[17] and its Implementing Provisions[18] introduced, among other things, requirements for pre-notification[19] and the AEO concept.[20] While the former requires EU carriers to pre-notify Customs – in the case of maritime cargo 24 hours before loading – in the form of an Entry Summary Declaration, the latter seeks to accredit traders that comply with minimal security management criteria and reward them with preferential treatment in either port and border clearance, customs compliance or both (see EU-case study at Annex 3B).

In a wider multilateral setting, in 2004 the ISPS Code[21] entered into force, which places an obligation on all signatories to the International Convention for the Safety of Life at Sea 1974 (SOLAS Convention)[22] to implement minimum security measures in order to address assessed risks facing particular ships or port facilities, including the implementation of port and vessel security management systems. This is further discussed in Section 4.3.

Following the air cargo security incidents originating from Yemen in 2010, further measures were introduced to enhance the global aviation security framework, through amendments to the Chicago Convention and its annexes.[23] The new measures included a requirement for contracting states to establish a supply chain security process that includes the approval of regulated agents and/or known consignors, if such entities are involved in implementing screening or other security controls of cargo and mail.[24] These initiatives are further discussed in Section 4.2.

Most recently, the WTO reached consensus in early December, 2013 on a text for a new Agreement on Trade Facilitation (WTO 2013). The agreement, which will need to be ratified by the members but which may come into effect as early as mid-2014, would be binding on all WTO members. Article 7, Section 7 of the Agreement reads as follows:

7 Trade Facilitation Measures for Authorized Operators

7.1. Each Member shall provide additional trade facilitation measures related to import, export or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such facilitation measures through customs procedures generally available to all operators and not be required to establish a separate scheme.

7.2. The specified criteria shall be related to compliance, or the risk of non-compliance, with requirements specified in a Member's laws, regulations or procedures. The specified criteria, which shall be published, may include:

a. an appropriate record of compliance with customs and other related laws and regulations;

b. a system of managing records to allow for necessary internal controls;

c. financial solvency, including, where appropriate, provision of a sufficient security/guarantee; and

d. supply chain security.

The implication of the text of these provisions is that if a country elects to introduce an 'Authorized Operator' program, it has a level of flexibility in terms of the criteria that may be applied. Note also that the criteria identified by the WTO are consistent with

those contained in the WCO SAFE Framework. In the event that a WTO member state elects to establish such a program, the Agreement would obligate the WTO member state to provide Authorized Operators with a minimum of three of the following benefits:

> 7.3. The trade facilitation measures provided pursuant to paragraph 7.1 shall include at least 3 of the following measures:
>
> a. low documentary and data requirements as appropriate;
>
> b. low rate of physical inspections and examinations as appropriate;
>
> c. rapid release time as appropriate;
>
> d. deferred payment of duties, taxes, fees and charges;
>
> e. use of comprehensive guarantees or reduced guarantees;
>
> f. a single customs declaration for all imports or exports in a given period; and
>
> g. clearance of goods at the premises of the authorized operator or another place authorized by customs.

Although Article 7 proceeds to encourage members to develop Authorized Operator programs on the basis of 'international standards' (without any specific mention of such standards), and to allow for mutual recognition arrangements, the provision is notable for the absence of any binding or formal adoption of related principles as set out in the SAFE Framework.

As the new Trade Facilitation Agreement establishes a Committee of Members as the relevant governance body, it appears to institute yet another parallel regime in the realm of supply-chain security and compliance-based trade partnership programs.

Figure 1 summarises the principal supply chain security activities that have been introduced since 9/11.

Figure 1: Key government-driven supply chain security initiatives

Year	Key Driver	Supply Chain Security Initiative
2001	USA	**Customs and Trade Partnership Against Terrorism (C-TPAT):** a voluntary partnership programme open to US based businesses and invited businesses located in Mexico and Canada which trade with the USA, focused on ensuring the security of commercial supply chains in exchange for preferential treatment at the border.
2002	IMO	**International Ship and Port Facility Security (ISPS) Code** places obligations on port and ship operators to implement minimum security measures and maintain a security management system. The ISPS Code applies to all signatories to the SOLAS Convention.
2005 (revised in 2007, 2010 and 2012)	WCO	**SAFE Framework of Standards (SAFE**) aims to establish globally applicable customs control standards to increase supply chain security while facilitating legitimate trade and promoting certainty and predictability. Apart from requirements for advance cargo reporting and measures to help collaboration between customs administrations, much of its focus is on the AEO partnership model with the private sector.
2005/06	EU	**Safety and Security Amendment to the Customs Code** (EC Regulation 648/2005) and its Implementing provisions (Regulation 1875/2006) introduced pre-arrival/pre-departure reporting requirements for shippers/transport companies to the EU; the AEO concept; and a framework for the electronic sharing of customs data between EU customs authorities.
2011	ICAO	**Annex 17 to the Chicago Convention:** Security "Safeguarding International Civil Aviation Against Acts of Unlawful Interference**,** incorporates the Regulated Agent and Known Consignee concepts among its Standards and Recommended Practices for international aviation security.
2013 (expected to commence in 2014)	WTO	**Draft Ministerial Decision – Agreement on Trade Facilitation:** establishes a new 'Authorized Operator' concept for WTO members. AO schemes are required to meet certain prescribed criteria and offer trade facilitation measures selected from a menu of benefits. AO is not cross-referenced to IMO, ICAO or WCO efforts.

Source: Authors.

4.2. International Civil Aviation Organization

An early recognition of the need for enhanced security for air transport, particularly in respect of cargo conveyed on passenger aircraft, led to the evolution of voluntary security programs for air transport. These programs, often referred to as 'Known Shipper' or 'Known Consignor', predate 9/11 and were first established as a response to the 1988 Lockerbie disaster.[25]

Since 9/11 aviation security has assumed even greater importance, and a series of significant aviation security measures have been introduced by governments, airlines, airports and international associations. Of particular note is ICAO's Plan of Action for

Strengthening Aviation Security, adopted by the ICAO High-level Ministerial Conference on aviation security in February 2002.[26] Among other things, the Plan of Action includes the development of a global response to new and emerging threats and the establishment of security audit programs.[27]

The standards that have since been developed by ICAO are designed to determine the necessary security controls to be applied to all cargo and mail prior to be loaded onto a commercial flight. In the absence of alternative screening procedures, the responsibility for such screening would fall to the aircraft operator (see Figure 2). However, this is not considered to be feasible, and consequently ICAO has been working with Member States and industry stakeholders to arrive at a practical alternative.[28] In doing so, ICAO concluded that:

> "A global secure supply chain approach to air cargo and mail could be achieved by applying security controls at the point of origin. The implementation of the secure supply chain is an efficient solution, built on a risk-based approach that meets the following objectives:
>
> - respect existing obligations of businesses operating in the air cargo supply chain;
>
> - share costs and responsibilities among all stakeholders and allow cargo to be secured upstream in the supply chain to reduce the burden of security controls imposed on aircraft operators;
>
> - facilitate the flow of cargo transported by air and reduce or limit possible delays generated by the application of security controls;
>
> - apply appropriate security controls for specific categories of cargo that cannot be screened by the usual means due to their nature, packaging, size or volume; and
>
> - preserve the primary advantages of the air transport mode: speed, safety and security".[29]

Figure 2: Security Controls Applied by Aircraft Operators
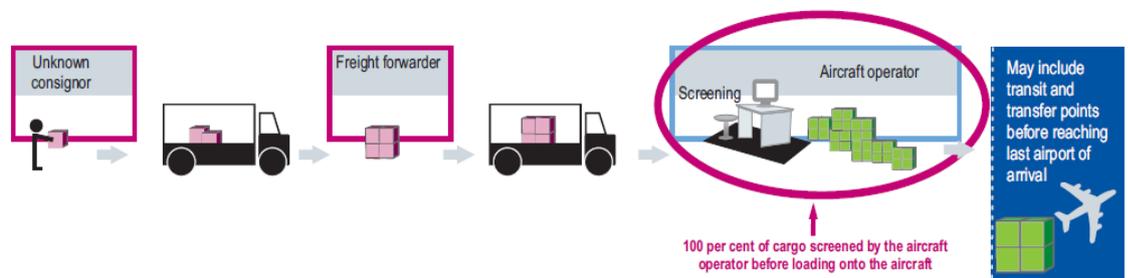
Source: ICAO and WCO, 2013, p.8.[30]

In implementing the 'secure supply chain' approach, ICAO introduced two AO schemes, i.e. the Regulated Agent and Known Consignor regimes, with the relevant provisions being incorporated in Annex 17 to the Chicago Convention. According to ICAO, these schemes:

> "allow security controls, including screening, to be applied upstream in the air cargo supply chain, by entities approved to act as such by the appropriate national authorities, thereby avoiding unnecessary duplication of security controls. Entities approved by the national authority must ensure that cargo and mail to be carried on commercial aircraft are protected from unauthorized interference from the point where screening or other security controls are applied until departure of the aircraft. Implementation of such a secure supply chain is considered to reduce the burden on aircraft operators while facilitating the processing of secure cargo when it arrives at an airport".[31]

The introduction of Regulated Agents, who are generally freight forwarders, allows the required security processes to be carried out prior to delivery of the cargo to the aircraft, thereby moving the 'secure supply chain' upstream of the airport operator. The status of Regulated Agent is granted by the relevant national authority, which must be satisfied that prescribed criteria are met. These include the maintenance of an appropriate security program, the application of cargo screening procedures to required standards, access controls, monitoring of premises and cargo, protection of cargo against unauthorised access, staff training and other relevant measures to ensure the integrity of the secure supply chain is maintained.[32]

In addition, the Regulated Agent must provide a secure means of transporting the cargo from the point of screening to the aircraft operator. The upstream application of security controls by Regulated Agents is illustrated in Figure 3.

Figure 3: Security Controls Applied by Regulated Agents
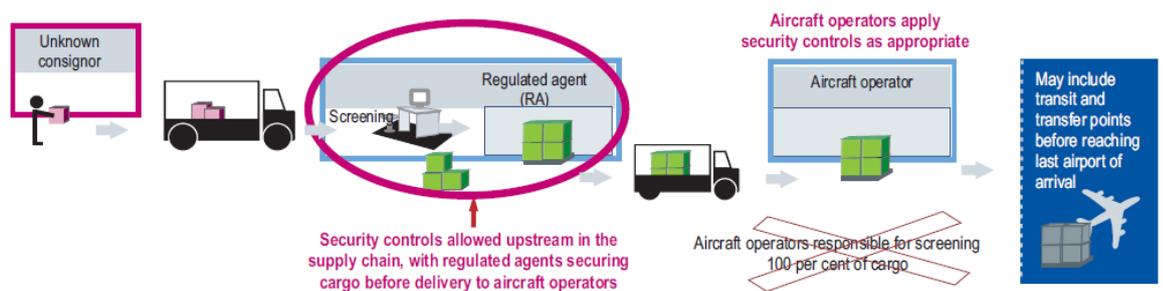
Source: ICAO and WCO, 2013, p.10.[33]

The Known Consignor scheme was developed by ICAO to address the situation in which air cargo is unable to be screened using conventional methods, due to the nature of the product itself, or the way in which it is packaged. The Known Consignor arrangements take the air cargo screening activities further upstream in the secure supply chain to the point of manufacture, assembly or packing (see Figure 4). Like the Regulated Agent, the Known Consignor must meet strict standards set by the relevant national authority and, having security screened the cargo, must deliver it to another approved entity, usually a

Regulated Agent, or directly to the aircraft operator in a manner that maintains the integrity of the secure supply chain. Known consignors are required to periodically reapply for accreditation, as national accreditation should not exceed five years.[34]

Figure 4: Security Controls Applied by Known Consignors
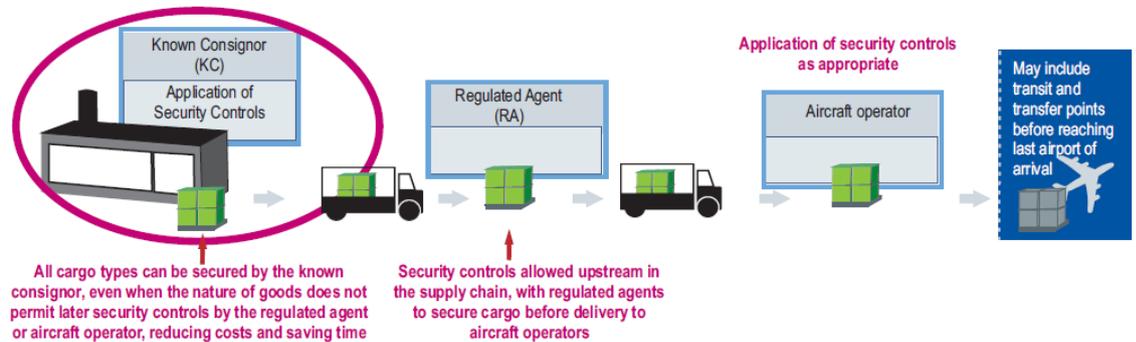
Source: ICAO and WCO, 2013, p.11.[35]

In summary, the objective of the known shipper/consignor/regulated agent concept is to verify the secure status of air cargo upstream from the aircraft operator, and to maintain the integrity of the associated secure supply chain. Due to the considerable areas of common interest, ICAO and the WCO are working closely to align the cargo security provisions of the Chicago Convention and the SAFE Framework, in particular in the areas of advance data requirements and AO qualification criteria.[36] According to the WCO, significant progress has been made in mapping the requirements of the WCO and ICAO programs, and it is planned to launch a pilot project in 2014[37].

4.3. International Maritime Organization

Mandatory security management requirements for ports and ships are set out in the IMO's International Ship and Port Security Code (ISPS Code). The ISPS Code was adopted as an amendment to the SOLAS Convention in 2002, which is the principal international treaty relating to the security of merchant ships and ports, and entered into force in 2004 through the addition of Chapter XI-2 (Special measures to enhance maritime security) to the Convention.

The ISPS Code applies among other things to cargo ships[38] and to port facilities that service such ships engaged on international voyages, and is required to be applied by all contracting states to the SOLAS Convention. Its purpose is to provide a standardised risk management framework that helps to mitigate risks by identifying appropriate security levels, with which are associated a series of corresponding security measures. While the ISPS Code provides general guidance, contracting governments are required to set the appropriate security levels. The objectives of the Code are:

1. to establish an international framework involving co-operation between Contracting Governments, Government agencies, local administrations and the shipping and port industries to detect security threats and take preventive

measures against security incidents affecting ships or port facilities used in international trade;

2. to establish the respective roles and responsibilities of the Contracting Governments, Government agencies, local administrations and the shipping and port industries, at the national and international level for ensuring maritime security;

3. to ensure the early and efficient collection and exchange of security-related information;

4. to provide a methodology for security assessments so as to have in place plans and procedures to react to changing security levels; and

5. to ensure confidence that adequate and proportionate maritime security measures are in place.[39]

While the ISPS Code is of relevance to the general topic of supply chain security, the methods adopted 'to ensure confidence that adequate and proportionate maritime security measures are in place' do not include the establishment of AO arrangements.

4.4. World Customs Organization

4.4.1. Development of the SAFE Framework

In 2003, driven by the US and its C-TPAT program, the WCO in collaboration with a number of other countries set about developing measures to secure and facilitate the international supply chain at the multilateral level. These efforts culminated in the adoption of the SAFE Framework of Standards to Secure and Facilitate Trade (SAFE Framework) in June 2005. For customs administrations, the SAFE Framework represents the principal international instrument with a focus on supply chain security. First published in 2005, it has subsequently been revised in 2007, 2010 and 2012. In the latest edition the stated aim of the SAFE Framework is to:

- Establish standards that provide supply chain security and facilitation at a global level to promote certainty and predictability;

- Enable integrated and harmonized supply chain management for all modes of transport;[40]

- Enhance the role, functions and capabilities of Customs to meet the challenges and opportunities of the 21st Century;

- Strengthen co-operation between Customs administrations to improve their capability to detect high-risk consignments;

- Strengthen Customs/Business co-operation; and

- Promote the seamless movement of goods through secure international trade supply chains.

The SAFE Framework, which at least 167 of the WCO's 179 country members have now committed to adopt, refers to two implementation strategies. The first strategy

concerns itself with the relationship between customs administrations (the so-called customs-to-customs pillar) - international standards establishing cooperation between customs administrations around the world to support the SAFE Framework initiatives. The second strategy concerns itself with the relationship between customs administrations and business (the so-called customs-to-business pillar) - international standards designed to identify and qualify low-risk business entities ('operators') in the international supply-chain, and to facilitate their international cargo movements, while focusing control efforts on higher risk cargo. Central to the customs-to-business strategy is the Authorised Economic Operator (AEO) concept.

The Revised Kyoto Convention,[41] a binding treaty on customs procedures which was negotiated before 9/11 and which came into effect shortly thereafter, provided a precedent, as it incorporates the 'Authorized Person' concept which is similar to the AEO concept under the SAFE Framework.

The SAFE Framework defines an AEO to be "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".[42] It further states that, "AEOs may include manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors and freight forwarders.[43] This then establishes the potential categories of operators that may be included in an AEO program, and WCO members that establish national programs may include one or more, or even all, of these categories.

The AEO concept represents a partnership arrangement between Customs and Industry that is designed to provide incentives for businesses that meet defined supply chain security standards. According to the WCO, "AEOs will reap benefits, such as faster processing of goods by Customs, e.g. through reduced examination rates… These processes will ensure that AEOs see a benefit to their investment in good security systems and practices, including reduced risk-targeting assessments and inspections, and expedited processing of their goods."[44]

The impact on business is addressed in a later section of this report, but at this point it should be noted that the AEO concept is very much defined by the benefits provided to business in exchange for their investment and effort in tightening-up security within their respective organisations and across their supply chains. For example, one of the benefits that the US C-TPAT program provides to members is the possibility of access to special rapid clearance procedures for land transport across the US northern and southern borders.

The WCO recognises the need for private enterprise to realise the benefits of such voluntary collaboration, as demonstrated in the preamble to Annex III of the SAFE Framework:

> "…An appreciation by the private sector of the benefits which may be provided by WCO Member Customs administrations, as well as the benefits of active participation in efforts to strengthen global supply chain security, is a critical element in the private sector being able to justify the additional costs incurred in the process of enhancing existing security measures. Clear and tangible benefits will help provide a needed incentive to business".

The WCO further states that benefits for AEOs shall be meaningful, measureable and reportable and include measures to expedite cargo release, access to information, priority treatment and consideration for access to facilitated customs procedures. Indicative examples provided by the WCO are presented in Figure 5.

Figure 5: SAFE Framework indicative examples of AEO benefits

A. Measures to expedite cargo release, reduce transit time and lower storage costs :

1. A reduced data set for cargo release;
2. Expedited processing and release of shipments;
3. Minimum number of cargo security inspections;
4. Priority use of Non-intrusive inspection techniques when examination is required;
5. Reduction of certain fees or charges for AEOs in good standing;
6. Keeping Customs offices open on a continuous basis when a tangible need for such coverage has been specifically identified.

B. Providing access to information of value to AEO participants :

1. Names and contact information for other AEO participants, with the consent of those participants;
2. List of all countries adopting the SAFE Framework;
3. List of recognized security standards and best practices.

C. Special measures relating to periods of trade disruption or elevated threat level :

1. Accord priority processing by Customs during period of elevated threat conditions;
2. Priority processing following an incident requiring the closing and re-opening of ports and/or borders;
3. Priority in exporting to affected countries after an incident.

D. First consideration for participation in any new cargo processing programs:

1. Account-based processing rather than transaction-by-transaction clearance of accounts;
2. Simplified post-entry or post-clearance programs; Annex III III/15.
3. Eligibility for self-audit or reduced audit programs;
4. Expedited processes to resolve post-entry or post-clearance inquiries;
5. Favourable mitigation relief from Customs assessments of liquidated damages or non-criminal administrative penalties, except for fraud;
6. Increased paperless processing of commercial shipments for both export and import;
7. Priority response to requests for rulings from national Customs authorities;
8. Eligibility for remote Customs clearance procedures;
9. Ability to file a corrective action or disclosure prior to the initiation of a Customs non-criminal administrative penalty procedure, except for fraud;
10. No penalties or liquidated damages imposed for late payment of duties, with only interest accruing.

Source: WCO 2012, pp.III/14-III/15.[45]

Through its so-called 'SAFE Package', the WCO has provided a great deal of information to assist countries in building internationally consistent AEO programs. Of special note is Annex III to the 2012 edition of the SAFE Framework, 'AEO Conditions, Requirements and Benefits'. The Annex provides some very clear guidelines for governments that are seeking to establish AEO programs, as well as minimum standards for economic

operators wishing to become certified under a national program. These guidelines, for practical purposes, are considered to represent the baseline for any new AEO program, as they also constitute the minimum criteria for mutual recognition with the established programs of the EU, Japan, and the United States.

The guidelines contained in Annex III of the SAFE Framework are considered to represent the baseline for any new AEO program, as they also constitute the minimum criteria for mutual recognition with the established programs of the EU, Japan, and the United States.

The two pillars of the SAFE Framework focus on greatly enhanced exchanges of information, predominantly in electronic format, and in real-time, about consignments and operators in the international supply chain—in Pillar 1, between governments, and in Pillar 2, between the private sector operators and governments. The categories of data in focus under the SAFE Framework and programs set up under its auspices include details of the consignment (contents, origin and destination information, mode and conveyance) and information about the operators handling it (parties such as shipper, seller, buyer, final recipient, service providers). The underlying premise is that by obtaining, sharing, and analysing as much data regarding a consignment at the earliest point in time possible, the authorities will be able to identify high risk consignments before they reach their target—ideally, before they are even loaded at the point of origin.

4.4.2. Evolution of the SAFE Framework

At its inception, the SAFE Framework and the AEO concept included in it were modelled on the US post-9/11 supply chain security initiatives, which were limited to fostering 'security' in a narrow sense, through preventing terrorist activity in the international supply chain. Indeed, the SAFE Framework was not initially designed to be a compliant trader program, and the AEO criteria were originally formulated with a clear focus on minimizing the risk of terrorist abuse of the international supply chain and more specifically, the maritime containerised supply chain.

The original AEO criteria, which are presented in Annex 2, caused some confusion among WCO members regarding the scope expected of their national programs. In this regard it is essential for any national program to clearly define the risks that are the target of the program's focus, be they security risks, trade compliance risks, or both. The subsequent amendments to the SAFE Framework have, however, clarified the expectation that both security and trade compliance risks should be addressed, and the numerous national programs implemented over the past eight years have also generally applied the broader definition.

In the 2012 edition, the WCO clearly articulates the risks it expects its members to address under the SAFE Framework. These are contained in Section 3.3 of the Technical Specifications for Standards Implementation:

- Improved security against acts of terrorism that exploit the global trade in goods.

- Reduced risk of economic hardship caused by disruptions to or closures of trade in response to terrorist acts.

- Improved security against theft and diversion of cargo, with consequent reductions in direct losses and indirect costs, such as insurance.

- Improved security against illegal transport of materials such as narcotics and weapons, and of persons.

- Improved security against the illegal movement of "black market" and "grey market" trade goods.

- Reduced risk of evasion of duties and taxes

- Increased confidence in international trading systems by current and potential shippers of goods.

- Facilitation dividends, such as a reduced number of examinations (reduced border times) and access to simplified procedures.

Reading this list from top to bottom reveals the evolution of the SAFE Framework. Starting from a narrowly-formulated multilateral response to the risk of terrorist abuse of the international supply chain, it has evolved to include the risk of any form of non-compliance with customs laws. As such, the original focus on a new societal risk (i.e. terrorism) has evolved to include pecuniary risk (cost of theft, diversion, insurance) to business, and further to include the risk of infringement against a nation's laws generally. Since the illegal activities identified in dot points four through six must be defined primarily against national law (which defines what is illegal in any particular country), SAFE Framework 2012 edition now provides an international framework enabling governments to cover any combination of the risks enumerated above in their national AEO program.

4.4.3. Implementation of the SAFE Framework

Following the inception of C-TPAT in the United States, and since adoption of the SAFE Framework in 2005, many countries have implemented new national programs under the auspices of the WCO's AEO concept. These include Canada, the EU, Japan, China, Singapore, New Zealand and more than 30 other countries in all regions of the world. The most recent summary of these programs is contained in the WCO's AEO Compendium, which the authors have updated to include programs that have been introduced since its publication (see Figure 6).

Some programs, in particular the US C-TPAT program, continue to focus primarily on the inbound supply chain, and on a narrowly defined set of security risks. The US formulation has evolved over the past decade to include not only terrorist tampering per se but also risks of loss, theft, and contraband (including drug) smuggling of the kind that could potentially introduce terrorists and implements of terrorism into the global supply chain and, since 2013, members can also 'opt-in' to include export security.

Other programs are focused on securing both the inbound and outbound supply chain (e.g. EU, Japan, China, Singapore and the new Mexico program), and some programs

heavily emphasize export, often to ensure that exports from the country's major traders have the ability to qualify for 'low-risk' status upon arrival in major export markets such as the US and EU by virtue of mutual-recognition arrangements. The programs of New Zealand, Costa Rica, Jordan, Peru, and Columbia fall into this category, some of which have no inbound/import security component.

Finally, a number of countries have implemented AEO programs which combine compliance- or revenue assurance-related measures with security measures. These programs may be bifurcated, as is the case in the EU, which enables a company to choose from a menu of 'AEO-Security and Safety', 'AEO-Customs Simplifications' (i.e. trade compliance), or the combined 'AEO-Full'. Alternatively, the trade compliance requirements may represent a mandatory element of any AEO certification.

Eligibility criteria also differ significantly among programs, with some countries restricting membership to a narrow range of roles in the supply chain, and others encouraging membership by a much broader range of categories.

Further AEO-type programs are currently being launched in countries as diverse as Botswana, Chile, Ecuador, Macedonia, Morocco, Pakistan, the Seychelles, South Africa, and Tunisia. Figure 6 provides an overview of operational programs,[46]and more detailed information on the programs implemented by the US, EU, Singapore, New Zealand and China are presented at Annex 3.

Figure 6: Operational AEO-type Programs

Country	Program	Launch/ latest version	Scope	Type of Operator	No. of Operators
Algeria	AEO	2012	Import/ export	Importers, Exporters	Unknown
Andorra	AEO	Unknown	import/ export	Unknown	Unknown
Argentina	Customs System of Reliable Operator (SAOC)	2006	import/ export[47]	Postal service and couriers	5
Canada	Partners in Protection (PIP)	1995, 2008	Import/ export	Importers, exporters, carriers, customs brokers, couriers, warehouse operators, freight forwarders, shipping agents	1480
	Customs Self-Assessment (CSA)	2001	Import	Importers and carriers	Unknown
China	Classified Management of Enterprises	2008	Import/ export	Importers, exporters, customs brokers	AA (AEO): 2,174 A: 25,582 B: 483,944
Colombia	AEO	2011	Import/ export	First stage: exporters of determined sectors. Second phase: all export sectors Third phase: to be determined	Unknown
Costa Rica	Customs Facilitation Program for Reliable Trade (PROFAC)	2011	Export	Exporters; maritime, air and land carriers	1
Dominican Republic	AEO-DR	2012	Import/ export	Importers, exporters, brokers, port and warehouse operators, shipping companies, freight forwarders, truckers, express carriers	2
Ethiopia	AEO	Unknown	Import/ export	All economic operators	Unknown
EU (28 Members)	AEO	2008	Import/ export	Anyone with customs dealings	12,101
Guatemala	AEO-GT	2010	Import/ export	Importers, exporters, customs brokers, carriers, port authorities, logistic operators	Unknown

Hong Kong, China	AEO	2012	Import/ export	All local operators engaging in the international supply chain activities	5
India	AEO	2011	Import/ export	Importers, exporters, service providers	Unknown
Indonesia	AEO	2010	Import/ export	Importers, exporters	Unknown
Israel	AEO	2011	Import/ export	Importers, exporters, custom brokers and international freight forwarders.	14
Jamaica	AEO	2009 Re-launch 2014	Import	Importers	270
Japan	AEO	2007	Import/ export	Importers, exporters, warehouse operators, customs brokers, logistic operators, manufacturers	482
Jordan	Golden List Program	2005	Import/ export	Importers, exporters, carriers, shipping agents, customs brokers, couriers, warehouse operators, freight forwarders	37
Kenya	AEO	2010	Import/ export	Importers, exporters, carriers, transporters/ shippers, clearing agents	64
Korea	AEO	2009	Import/ export	Importers, exporters, customs brokers, freight forwarders, transporters, carriers, ground handlers, warehouse operators	292
Malaysia	AEO	2010	Import/ export	Importers. Exporters	32
Mexico	New Program of Certified Companies (NEEC)[48]	2012	Export	Manufacturers with export operations from all sectors excluding Textiles and Footwear	3
New Zealand	Secure Exports Scheme (SES)	2004	Export	Exporters (responsible for security from point-of-pack to the port of loading including all intermediaries and service providers)	117
Norway	AEO	2009	Import/ export	Whole supply chain	28
Peru	AEO	2013	Export	Exporters, customs brokers, warehouse operators	5
Rwanda	AEO (pilot)	2013	Import/ export	Trader, transporter, clearing agent	3 (pilot)
Singapore	Secure Trade Partnership (STP)	2007, 2008	Import/ export	All supply chain operators based in Singapore	86
Switzerland	AEO	2011	Import/ export	Whole supply chain	9
Taiwan	AEO	2009	Import/ export	Importers, exporters, service providers	General: 363 Security: 225
Tanzania	AEO	2013	Import	Importers, clearing agents, transport companies	Unknown
Thailand	AEO	2013	Import/ export	Importers, exporters, customs clearance agents	Unknown
Turkey	AEO	2013	Import/ export	Importers, Exporters	Unknown
Uganda	AEO	2013	Import/ export	Individuals, business entities and government departments	10
Vietnam	AEO	2013	Import/ export	Importers, exporters	14
Uruguay	Qualified Economic Operator	2014	Import/ export	Importers, exporters, customs agents, carriers, free zone and warehouse operators	0
USA	Customs-Trade Partnership Against Terrorism (C-TPAT)	2001	Import	Whole supply chain, excluding warehouse operators, but including ports and foreign manufacturers	10,702
Zambia	Customs Accredited Clients Program (CACP)	2008	Import	Any Client that meets the requirements for the program.	12

Source: See endnote.[49]

4.4.4. Mutual Recognition

Many countries with AEO programs have already implemented MRAs. These agreements have two primary features - cooperation between the customs administrations of the two countries, and collaboration in providing defined benefits to AEOs certified under one country's program when their consignments are processed at the border of the other. The current status of Mutual Recognition programs is shown in Figure 7.[50]

Figure 7: Mutual Recognition Programs

	A. Operational	B. Under Negotiation

Date	Countries	Countries
June 2007	New Zealand-USA	China-EU (pilot since 2009)
May 2008	Japan-New Zealand	China-Japan
June 2008	Canada-USA	Japan-Malaysia
June 2008	Jordan-USA	China-Korea
June 2009	Japan-USA	Hong Kong, China-Korea
July 2009	EU-Norway[51]	India-Korea
July 2009	EU-Switzerland[52]	Israel-Korea
June 2010	Canada-Japan	Norway-Switzerland
June 2010	Canada-Korea	Singapore-USA
June 2010	Canada-Singapore	Switzerland-USA
June 2010	EU-Japan	Israel-USA
June 2010	Korea-Singapore	Mexico-USA
June 2010	Korea-USA	China-USA
January 2011	Andorra-EU	Hong Kong, China-Singapore
May 2011	Japan-Korea	Israel-Taiwan
June 2011	Korea-New Zealand	India-Taiwan
June 2011	Japan-Singapore	Singapore-Taiwan
May 2012	EU-USA	China-Taiwan
June 2012	China-Singapore	New Zealand – Singapore[53]
November 2012	Taiwan-USA	Japan-Switzerland
July 2013	Singapore-Taiwan (pilot)	
October 2013	China-Hong Kong, China	
November 2013	India, Hong Kong, China	

Source: See endnote.[54]

In addition, the following countries are expected to commence negotiations within the next two years:

- Korea-Indonesia

- Canada - EU

- EU - Korea

- EU - New Zealand

- EU – Singapore

- Hong Kong, China – Japan

- Hong Kong, China - Malaysia

- Hong Kong, China – New Zealand

- Hong Kong, China - Taiwan

- Hong Kong, China - Thailand

- Rwanda - other East African Community (EAC) countries[55]

- Japan – Vietnam

Of those agreements that are currently under negotiation, the US has announced a goal of having an MRA in place with Mexico's newly revised AEO program by the end of 2014.[56] Further, reference to MRAs has formed part of the Trans-Pacific Partnership (TPP) treaty negotiations, which will cover all of the major Pacific Rim economies except China and Russia.[57]

The trend of anchoring mutual recognition arrangements into treaties is almost certain to continue in the US-EU Transatlantic Trade and Investment Partnership discussions. Relevant to Australia at the regional level, aside from the TPP, are the APEC Counter Terrorism Action Plans and the Secure Trade Lane initiatives, in particular.[58]

Because of the proliferation of national AEO programs, and the differences in scope and focus among them, challenges have arisen for bilateral mutual recognition arrangements between programs. Effective mutual recognition pre-supposes that the two national programs ensure that their AEOs adhere to the same security standards, that the national agency administering the program has its validation practices recognised as adequate by the partner administration, and that the importing country is able to identify (typically by means of IT systems or unique identifiers) that a consignment is in fact associated with the partner country AEO (and that the AEO status is currently valid).

If a company has achieved AEO status in one country, it might also be entitled to have that status recognised directly by the country to which it ships its goods, enabling that shipment to be recognised as a low-risk consignment at import. This is the case with shipments exported from New Zealand, and in this regard, New Zealand Customs recently announced that goods exported to the US by traders who are members of its voluntary Secure Export Scheme (an AEO-type scheme) are "3.5 times less likely to be held up for examination"[59] upon arrival at a US port.

Goods exported to the US by traders who are members of New Zealand's Secure Export Scheme are 3.5 times less likely to be held up for examination upon arrival at a US port.

Similarly, a company with mutually-recognised EU AEO status exporting to the US will not be subjected to a USCBP on-site validation, as might otherwise be required if it is acting as a supplier to a US importer qualified under the C-TPAT program.[60]

With regard to the customs-to-customs cooperation aspect of mutual recognition arrangements, the WCO advises that it is essential that the partnering countries are committed to building a co-operative partnership.[61] Prospective partners must both be signatories to the SAFE Framework with intent to implement both pillars, and must have an AEO program that meets the characteristics defined in the SAFE Framework, along with the following elements of the Customs-to-Customs pillar :

- A system of automated risk management;

- Ability to receive advance electronic information on cargo for risk analysis screening purposes;

- Ability to examine high risk cargo using modern technology before loading for export;

- Willingness to agree to conduct pre-load examinations upon reasonable request from the other partner(s);

- Legal ability, willingness and capacity to share information on risk;

- The partners have an agreed set of common standards that include clear and objective "action" provisions for both Customs and AEOs;

- AEO Programs are transparent and well published;

- Standards are applied in a uniform manner so that one Customs administration may have confidence in the authorization of another;

- Understanding of a partner country's actual clearance procedures, cargo control environment, etc;

- Legislation to enable mutual recognition is in place and published; and

- Data security and data protection provisions are compatible.

Turning to the customs-to-business aspect of mutual recognition, as defined in Part XI of the SAFE Package, once a mutual recognition arrangement is implemented, AEOs should be expected, inter alia, to benefit from:

- improved economic efficiency through reduced time and costs associated with cross-border customs controls due to priority treatment;

- Reduced costs and time delays through priority inspections when cargo is selected, thereby facilitating just-in-time deliveries;

- Improved predictability and precision in moving goods from one's own territory to the territory of the trading partner whilst improving competitiveness of business;

- Reduced cargo theft and pilferage by improving the security of the bilateral supply chain;

- Target examinations so as to allow non-selected cargo belonging to the same trader to proceed without delay to destination to the extent possible; and

- Reciprocal or comparable compliance benefits whenever equivalent programs are provided.[62]

While bilateral and multilateral initiatives (in particular those of the WCO) are underway to make mutual recognition easier to put into practice, up until 2012 most AEOs had yet to see any significant, direct benefits in trade lanes where mutual recognition nominally exists. This started to change in late 2012, when the US, the EU, and Japan, all with MRAs in place, began to roll out in concept mutual recognition benefits for traders qualified as AEOs.

In the US-EU context, EU AEO companies with current good standing as either AEO-S (security) or AEO-F (the broader version of EU AEO which incorporates both security and compliance aspects) were exempt from US CBP validation when supplying to US C-TPAT members. In a similar vein, a process is currently being put in place between all three economies (US, EU, and Japan) whereby the governments exchange information on the current status of companies qualified for their respective AEO programs (the Japanese and EU AEO programs, and the US C-TPAT program), and this status is then fed into the national risk management system for in-bound consignments. If an AEO/C-TPAT member (in good standing) is identified as the consignor of a shipment, typically by means of the electronic pre-departure/pre-arrival notification system in place in the receiving country, the shipment will be entitled to low-risk status upon arrival, and benefit from expedited import clearance.[63]

The realisation of this benefit is complicated by incompatibilities in the importer identification schemes among the three economic powerhouses, as well as different modalities of identifying AEO status and applying it as a risk factor in the respective national systems.[64] However, all three governments are actively working to resolve these issues, and there is currently a proposal, jointly-sponsored by the EU and the US, in front of the WCO to standardise the so-called Trader Identification Number (TIN) and the modalities to be utilised in identifying low-risk status of a consignment moving in international trade which is associated with a qualified AEO.[65]

4.4.5. Trader Identification

As noted above, a potential obstacle to effective implementation of mutual recognition arrangements at a practical level is the identification of traders. Countries generally require registration of importers and exporters as a pre-requisite for processing goods declarations and payment of duties and taxes. This is achieved by assigning an identification number to each trader, which is then used in government IT systems for tracking operational activities, revenue liabilities, and compiling a compliance track record which can be used for targeting and risk management. In some countries, the trader identification number (TIN) is identical to a company's tax registration number, but this is not always the case. Formatting of TINs can vary greatly between national systems in terms of length and combinations of letters, symbols and numbers; and the linkage between a TIN and the associated company data is invariably subject to privacy concerns.

In the AEO context, most countries either provide AEOs with a separate number as a validation of their authorised standing, or assign an 'AEO-certified' status to the TIN in their government systems, thereby enabling the company's status to be recognised in

order to differentiate its treatment at the border (e.g. in automated risk targeting). AEO mutual recognition pre-supposes that AEO status will be recognised not only in the country granting the status, but also in partner countries that have concluded an agreement with the granting government. At a practical level, this requires the two countries to exchange both trader TIN information and confirmation of a trader's AEO status (recognising that this may change over time). It also requires the two countries' national IT systems to be able to process the TIN (in whatever format it may be), recognise the AEO status, and to link the result to particular transactions in its own domain. This may present technical challenges, leading to potential IT costs (if country B's system cannot handle country A's format, for example, and needs enhancements and additional programming), and may also present issues with national data protection standards.

As reflected in the joint US-EU proposal noted above, a response to this challenge may be to move towards international standards for TINs and the processes governing their international exchange between governments, and the use of the associated trader data. The WCO is currently conducting a pilot for its Globally-Networked Customs initiative, which is predicated on laying the groundwork for widespread real-time exchange of trader and consignment data between governments. Two ongoing test case projects, one jointly sponsored by the US and the EU, and focused on AEO Mutual Recognition, and another focused on interchange of paired export/import declaration data (sponsored by South Africa and Swaziland), are currently exploring these issues. These projects are the subject of ongoing deliberations at the WCO, and a consensus seems to be emerging on the need for serious consideration of a new global standard for TIN. The two project summary documents[66] are therefore recommended reading for any government looking to introduce mutual recognition arrangements, or indeed which may in any way be contemplating an arrangement with another government focused on the exchange of trader or consignment data in real-time.

4.4.6. SAFE Framework: Impact on business practice

Prior to 9/11 and the implementation of the many national and multilateral measures described above, many businesses had already banded together to establish standards to promote secure supply chains, as that term was understood at the time. And most major businesses, in particular major multinationals with global operations, or smaller and medium-sized businesses dealing in high-value goods, had already established extensive internal policies and procedures focused on securing their facilities, their IT systems and their personnel.[67]

These policies and practices generally related to issues such as theft prevention, preventing unauthorised access to systems, files and facilities, and mitigating the risk of infiltration of the company's legitimate supply chain by traffickers. In addition, and essentially for reasons of commercial prudence, many companies had also introduced extensive vetting processes relating to their suppliers, including service providers, and customers. These processes addressed issues such as credit-worthiness, unauthorised labour practices and protection of proprietary rights. Several voluntary certification programs were also well established prior to 9/11 such as those developed by the International Organization for Standardization (ISO), the Transported Asset Protection Association (TAPA) and the Business Alliance for Secure Commerce (BASC), which provided ways for a business to both improve its internal processes and to distinguish itself vis-à-vis its competition.

From the early days of the discussions between business and the US government on what became the C-TPAT program (and then evolved to become the basis for the SAFE Framework and the AEO concept), the new post-9/11 programs devised to reduce the risk of terrorist abuse of the supply chain focused on leveraging existing business practices via imposing minimum standards and optimising them, rather than inventing something completely new.

What was new was the fact that the government, in the form of the national customs administration, turned its focus from a relatively narrow view of what occurred at the border, in the sense of inspecting shipments and determining whether revenue was due, to a much broader view of the entire end-to-end international supply chain, and all of the players in it. And Customs intended to do so at a level of detail which was completely unprecedented, so that it could not only understand the supply chain, and the operations of the various players, but also make recommendations for improvement, and define best practices which then became minimum requirements for a new voluntary certification program.

At inception, membership in the C-TPAT program was open to any US company willing to provide a description of its security processes, and open its files and doors to US Customs inspectors to validate that its processes did in fact mitigate potential terrorist abuse of its supply chain. The program quickly evolved in terms of both the requirements and sophistication of the government inspectors, and business and government over a period of years agreed on a set of mandatory requirements for obtaining and maintaining C-TPAT certification. These requirements were embedded in the SAFE Framework at its inception in 2005 and still form the foundation of the 2012 version, thereby representing the basis of eligibility for mutual recognition under the auspices of the SAFE Framework.

Standard 1 (Partnership) of the SAFE Framework Customs-to-Business Standards[68] 2012 states:

> "Authorized Economic Operators involved in the international trade supply chain will engage in a self-assessment process measured against pre-determined security standards and best practices to ensure that their internal policies and procedures provide adequate safeguards against compromise of their supply chains until cargo is released from Customs control at destination."

There are two key aspects to be considered in the above: (1) AEOs should perform a self-assessment against defined standards in determining whether their "internal policies and procedures provide adequate safeguards", and (2) the supply chain in scope is defined as being that from the earliest portion of the physical supply chain controlled by the AEO (which can include inbound supply chains controlled by suppliers or service providers, to operations at their own facility, and beyond to the point at which the cargo is released by Customs in the country of destination). Note that the expectation of SAFE is that the self-assessment will be shared with Customs as part of the AEO certification process.

Practically speaking, achieving certification under an AEO program requires a business to provide information, often very detailed and in the form of a self-assessment, about its operations, its supply chain, its personnel, and its internal processes, and to give an undertaking to meet the prescribed minimal security conditions. The application is then reviewed by the relevant administration, which undertakes a background check in relation to the company's reputation, compliance track record, and (in some countries)

financial solvency. If the application is provisionally approved, a validation will generally be undertaken to verify the self-assessment, and to determine whether the company policies and procedures do in fact meet the defined standards.

AEO certification is generally granted on the level of a unique legal entity, although the US C-TPAT program allows corporate groups of entities to be certified if all use the same operational procedures. Following certification, the AEO has a continuing obligation to report any change in relevant facts or procedures, as well as any breaches of security. In many countries, submission of an annual 'monitoring' report is required to maintain AEO status. The administration will periodically (generally every 2-3 years) perform a re-validation of the AEO to ensure that it is continuing to comply with its obligations, and may suspend or revoke a company's AEO status if it is in breach of the program's requirements. Such suspension and revocation is generally subject to an appeal process.

At this point it is worth noting another relevant comment in SAFE 2012, contained in Technical Standard 3.3:

> "There are responsibilities and principles that apply throughout the life cycle of a containerized shipment of goods…Each party in possession of the container has security responsibilities while cargo is entrusted to them, whether at rest at a node or while moving between nodes…Those responsibilities include :
>
> - Protecting the physical goods from tampering, theft, and damage.
>
> - Providing appropriate information to government authorities in a timely and accurate manner for security screening purposes.
>
> - Protecting the information related to the goods from tampering and unauthorized access. This responsibility applies equally to times before, during and after having custody of the goods."[69]

As per the above, and as enumerated in Annex III to the SAFE Framework, the AEO must have adequate (as defined by the government) security measures in place that include "a security plan adapted to the assessed threats, a communication plan, procedural measures to prevent irregular or undocumented goods entering the international supply chain, physical security of buildings and premises used as loading or warehousing sites, security of cargo, means of transport, personnel vetting, and protection of information systems".[70] Within the SAFE framework it is also expected that the AEO is committed to co-operation with Customs. This commitment includes providing details for dedicated contact persons within the AEO management structure, and an obligation to report suspicious activities (direct or anonymously via trade associations). The AEO must also train its staff adequately.

Furthermore, the AEO is expected to ensure that its business partners in the supply chain implement their own security procedures which are equivalent to those of the AEO itself. In the C-TPAT program, this requirement is enforced by USCBP, in that companies are required to have their suppliers agree to be validated on-site by USCBP officers upon demand, and each C-TPAT member is also required to perform and document an annual survey of all suppliers and service providers regarding their current status in a national AEO program, and ensure their maintenance of sufficient security procedures if they are not members. C-TPAT members are also required to perform a periodic risk analysis of all suppliers by geography and type, and to demonstrate

progress over time in either bringing such suppliers and supply chains up to the required levels of security, or finding alternative sources which do meet such levels.

However, if a supplier is a member of either C-TPAT or an AEO program recognised by the US, the C-TPAT member is not required to complete these onerous procedures, nor is the supplier subject to validation by USCBP. For that reason, C-TPAT members seek to ensure that their suppliers and service providers are either AEO-certified or meet equivalent standards – any failure by them to do so is likely to mean losing a customer. Other programs, in particular the EU programs, are evolving in a similar direction, with increased requirements on program members to ensure that their suppliers and service providers throughout the entire supply chain are members of recognised national AEO programs.

The direct and indirect cost of AEO certification very much depends on the country concerned and the accreditation approaches taken by Customs. Anecdotal reports suggest that approaches taken by administrations can vary from detailed and informed reviews of management systems to more simplistic check-list type audits. Subsequently costs of implementation are thought to differ significantly, depending on where and who is conducting the accreditation. In the UK, to give one example, AEO application costs are thought to average around £14,000 for medium sized firms and £40,000 for larger companies with multiple facilities.[71] Where companies feel the need for additional professional services, for example to prepare the self-assessment, or implement measures to correct deficiencies, implementation costs can be higher.

5. Australian initiatives

Australian Government agencies with primary responsibility for international transport and supply chain security include the Australian Customs and Border Protection Service (ACBPS), the Office of Transport Security (OTS) within the Department of Infrastructure and Regional Development (DIRD)[72] and the Department of Agriculture (DAg).[73] Other government agencies with functions and interests in matters relating to international supply chain security and trade facilitation are the Department of Foreign Affairs and Trade (DFAT) and the Department of Immigration and Border Protection (DIBP).[74]

Private sector stakeholders include traders, service providers such as customs brokers, freight forwarders, express carriers, airlines, shipping companies, and port and airport operators, as well as relevant industry organisations. These include industry representative bodies such as the Customs Brokers and Forwarders Council of Australia (CBFCA), Export Council of Australia (ECA), Australian Federation of International Forwarders (AFIF), Conference of Asia Pacific Express Carriers (CAPEC), Shipping Australia Limited (SAL), and the Australian Chamber of Commerce and Industry (ACCI).

5.1. Australian Aviation initiatives

5.1.1. Stakeholder consultation

The Aviation Security Advisory Forum (ASAF) is a forum through which the OTS and senior representatives from industry share and discuss views on aviation security matters of an operational, legal, policy and regulatory nature.[75] The ASAF seeks to achieve, maintain and, where appropriate, improve aviation transportation security throughout Australia. ASAF oversees a series of working groups that consider issues relating to identity, cargo, training, technology, legislation and other aviation security matters.[76] Participation is by invitation and generally includes senior executives from major industry stakeholders, government agencies and a representative of the Regional Industry Consultative Meeting (RICM),[77] whose purpose is to facilitate a constructive industry-government exchange of views on regional aviation security issues of an operational, legal, policy or regulatory nature.[78]

OTS recently increased its industry engagement to ensure that the security framework addressed in the March 2013 departmental discussion paper 'Strengthening Australia's Air Cargo Supply Chain'[79] is appropriate for the Australian context while meeting Australia's international obligations and the expectations of its trading partners.[80] In this context, OTS meets regularly with a variety of representative industry groups and businesses around the country.

5.1.2. Aviation transport security

Aviation transport security involves safeguarding Australia's civil aviation operations against acts of unlawful interference.[81] It is regulated by the OTS primarily through the *Aviation Transport Security Act 2004* (ATSA) and the *Aviation Transport Security Regulations 2005*, which were passed to maintain and improve transport security in civil aviation.[82]

Key features of the ATSA air transport security framework include:

- enhancing the structure of the aviation security regulatory framework and providing for adequate flexibility in order to reflect the rapidly changing threat environment;

- aligning Australian aviation security with the revised ICAO standards;

- Aviation Security Identification Card (ASIC), Visitor Identification Card (VIC), Temporary Aircrew Card (TAC) schemes;

- introducing graduated penalties for a more appropriate or equitable enforcement regime; and

- implementing policy reviews and decisions made in response to the elevation of risk to aviation.[83]

In December 2009 the previous Government released its Aviation White Paper, 'Flight Path to the Future', which outlines a number of initiatives designed to ensure Australia's air cargo security practices align with, and are accepted by Australia's international trading partners;[84] and in February 2010 it announced the 'Strengthening Aviation Security Initiative' together with funding of $200 million over a period of 4 years.[85]

ATSA and the Aviation Transport Security Regulations 2005 establish mandatory security requirements for 'aviation industry participants' and require such participants to operate an approved Transport Security Program (TSP).[86] The TSP requirements vary depending on the type of industry participant to which the program applies. Section 9 of ATSA defines an 'aviation industry participant' to include:

> An airport operator; an aircraft operator; a regulated air cargo agent an accredited air cargo agent; a person who occupies or controls an area of an airport (whether under a lease, sublease or other arrangement); a person (other than an aviation security inspector) appointed by the Secretary to perform a security function; Airservices Australia; and certain contractors.[87]

A significant part of the aviation transport security framework relates to air cargo security. It is administered by OTS through two accredited operator schemes, the Regulated Air Cargo Agent (RACA) and the Accredited Air Cargo Agent (AACA) schemes. Both schemes are designed to ensure that all air cargo is security cleared before it is loaded on an aircraft, and prescribe measures to be observed by businesses that security clear, handle or make arrangements for the transport of air cargo.

5.1.3. Regulated Air Cargo Agent (RACA)

The RACA scheme applies to businesses that make arrangements with airlines for the carriage of air cargo or operate a site for the purpose of storage, handling, examination, or processing of air cargo.[88] Any businesses that security clear, handle or make arrangements for the transport of air cargo must become RACAs, and are responsible for:

- developing and implementing a TSP based on a thorough security risk assessment of their operations;

- providing a statement of undertaking giving effect to specific obligations imposed under the ATSA;

- security checking, and protecting the security of all cargo from receipt until it leaves their possession; and

- providing their employees with security training.[89]

The TSP must set out the measures and procedures to be used to examine, handle, store and transport cargo in a secure manner; and make arrangements for the secure movement of cargo. The measures and procedures must be applied to cargo that is in the RACA's possession or under the RACA's control; and at each site or facility that is covered by the TSP.[90]

The TSP must also include a statement outlining the local security risk context of the RACA, including consideration of location, seasonal and operational factors; a list of general threats and generic security risk events to people, assets, infrastructure and operations; and an outline of the people, assets, infrastructure and operations that need to be protected.[91] A summary of specific matters that must be dealt with in the TSP of a RACA are set out in Annex 4.[92]

5.1.4. Accredited Air Cargo Agent (AACA)

The AACA scheme strengthens the supply chain industry by enhancing security arrangements and procedures for the road transportation of cargo. It complements the RACA scheme and covers businesses that provide road transport of cargo destined for carriage by air, such as courier companies,[93] and is designed to cover smaller operators with less complex business operations. Both schemes apply to cargo to be carried on an aircraft from anywhere in Australia.[94]

An AACA is a person who is accredited by DIRD, and who carries on a business that includes handling or making arrangements for the transport of cargo.[95] Any person carrying on a business, or intending to carry on a business, that includes handling or making arrangements for the transport of cargo, may apply to be accredited as AACA.[96]

The OTS must provide an applicant for accreditation with an AACA security program that is appropriate for the kind of business that is carried on by the applicant and which addresses the relevant regulatory requirements.[97] An applicant may:

- accept the AACA security program provided by OTS and notify the Secretary that it wishes to proceed with its application;

- reject the program and notify the OTS that it wishes to withdraw its application; or

- make a request to the OTS to amend the security program.[98]

The AACA security program provided by DIRD must be relevant to the kind of business being carried out, and include measures and procedures to deter and detect the unauthorised carriage of explosives, prevent acts of unlawful interference with aviation, prevent unauthorised persons from having access to cargo, prevent the unauthorised disclosure of information, control access to the AACA's premises, and for reporting aviation security incidents.[99] The specific matters that must be dealt with in the AACA's security program are set out in Annex 5.

5.1.5. Proposed new air cargo security framework

In March 2013, DIT released a discussion paper 'Strengthening Australia's Air Cargo Supply Chain', subtitled 'Building a More Secure End-to-End Supply Chain for our Australian Air Cargo Exports'[100] which addresses the previous Government's proposed new export air cargo security requirements to strengthen the aviation supply chain against the threat of terrorism and other acts of unlawful interference. The discussion paper states:

> "As well as our international obligations, the Australian aviation security regime must continue to meet the changing requirements of key overseas trading partners to ensure our access to international markets and maintain global competitiveness. The new framework is designed to meet these requirements and to enhance our air cargo security. Similar frameworks are already in place in the United Kingdom and the United States and are being introduced in Europe. With increasing international standards it is expected that most ICAO member states will move to put similar frameworks in place in the coming years.[101]

> "Proposed changes include the introduction of a Regulated Shipper Scheme (RSS) thereby extending security measures to include businesses who originate export air cargo, Enhanced Air Cargo Examination (EACE), as well as changes to the rules governing RACAs.

> "Under the current scheme, cargo is handled by RACAs and AACAs which are typically freight forwarders, transport and logistics companies. In the new security framework businesses who originate export air cargo will be allowed to undertake security measures to clear their cargo for uplift on an aircraft".[102]

The RSS is intended to be a voluntary program, open to all those who export cargo by air. According to DIRD, Regulated Shippers would operate under a layered approach to security, with prevention playing a key role.[103] An overview of the proposed arrangements as outlined in the discussion paper is shown in Figure 8.

Figure 8: New Air Cargo Security Framework
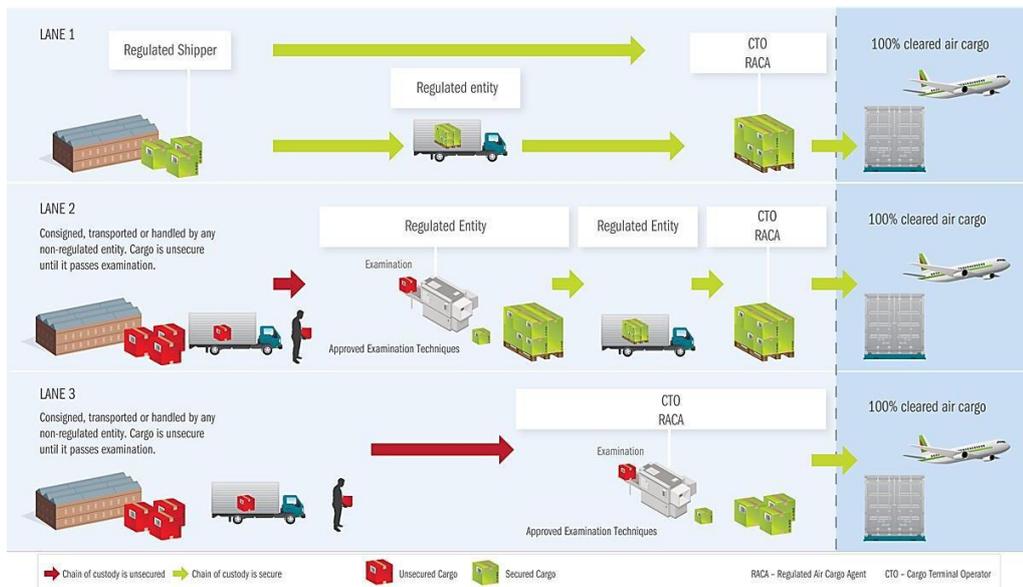
Source: DIT (2013)[104]

Lane 1: Air cargo originates from a Regulated Shipper

Air cargo is cleared for entry into the secure supply chain. To maintain the 'cleared' status of air cargo as it progresses through the supply chain, the integrity of the secure supply chain itself must be maintained, and consequently the cargo may only be handled by an AACA or a RACA. If the air cargo maintains its cleared status, there may be no requirement for it to undergo enhanced examination, subject to other security, regulatory or policy requirements.[105]

Lane 2: Air cargo originates from an unregulated entity

Air cargo cannot enter a secure supply chain unless it has undergone enhanced examination. In lane 2 this is undertaken by an AACA or RACA who is located off-airport. Once cleared, to maintain its cleared status, the cargo must be securely handled by an AACA or RACA.[106]

Lane 3: Air cargo originates from an unregulated entity and is not examined prior to reaching the airport

Similar to lane 2, the air cargo originates from an unregulated entity and/or is handled by unregulated entities. It has not undergone enhanced examination prior to reaching the airport. In this case the air cargo will be required to undergo enhanced examination by a RACA (CTO) located at the airport.[107]

As can be seen from the above, the intention is to provide exporters with a choice of becoming a Regulated Shipper and using a RACA or AACA to handle its cargo, or having its cargo undergo enhanced examination at some point prior to uplift on an aircraft. These arrangements are designed to reduce the pressure of having to examine large volumes of cargo at the airport, ensure exports continue to flow, and enable examination costs to remain competitive.[108] Key principles of the RSS include:

- requirement to undergo assessment, approval and accreditation process;

- requirement to implement and comply with security obligations;

- requirement to complete cargo clearance documentation;

- compliance activities;

- personnel security; and

- security awareness and training requirements.[109]

The discussion paper indicates that, upon full implementation of the proposed new air cargo security framework:

- all goods exported from Australia by air would need to originate from a Regulated Shipper, or be subject to enhanced examination prior to uplift on an aircraft, or be legally exempt goods;

- air cargo originating from a Regulated Shipper would be required to remain secured along the regulated supply chain to the aircraft or it would be subject to enhanced examination; and

- air cargo originating from unregulated businesses would need to undergo enhanced examination before uplift onto an aircraft.[110]

The Departmental discussion paper also indicates that the majority of current RACAs would become AACAs under the new air cargo security framework. "The new framework will see the AACA function expanding from just moving air cargo to securing and examining (if desired and assessed as capable) air cargo and operating secure premises."[111] Further, the paper indicates that only operators with airside access at an airport would continue to be RACAs, and would be required to have an individual TSP as they have more complex security obligations to manage their airside access. Operators away from the airport would become AACAs and be provided with a model AACA Security Program.[112] In effect, the discussion paper envisages that regulated shippers would be a new type or class of AACA and would also be provided with a model AACA Security Program and be required to implement and comply with these security obligations.[113] "There will be no difference in security standards and outcomes between an AACA and a RACA, just a different type of program will be used to regulate their security obligations."[114]

The EACE arrangements outlined in the discussion paper involve enhanced examination of air cargo, but also extend to personnel security and training of examination staff. According to DIRD, "Under EACE, air cargo examination arrangements will require that improved methods, techniques and equipment are used to clear cargo. The focus will be on achieving the desired security outcome within a flexible examination framework. This means that regulated businesses who examine air cargo will be allowed some flexibility in how they conduct enhanced examination".[115] "Both AACAs and RACAs can choose to take up examination. Examination could be performed by an AACA before the cargo reaches the airport. At the airport, a RACA could conduct examination".[116]

To understand the potential implications of the proposed regulatory changes relating to RSS and EACA, DIRD conducted two EACA pilots in 2013, designed to test prospective EACE policy settings in an operational environment.[117] The first pilot project, which concluded in May 2013, involved a number of express carriers who have installed examination capability and a major perishables freight forwarder.[118] According to DIRD, "Lessons learnt through this exercise will provide valuable input into the development of a new enhanced Air Cargo Examination (ACE) notice…that will set out procedural requirements for examining air cargo".[119]

DIRD further states that, "In introducing new transport security requirements for participants in the air cargo supply chain, it is acknowledged that some similarities with Australian biosecurity and customs regimes may exist. The Department is discussing how best to ensure new security requirements are consistent with existing border control measures with the Australian Customs and Border Protection Service and the Department of Agriculture, Fisheries and Forestry and to investigate opportunities for recognising current practices".[120] This accords with ACBPS which has indicated that, "Synergies between RSS requirements and the AEO concept will continue to be explored".[121] This then paves the way for elements of a whole-of-government approach to the assessment of regulated operators, by potentially avoiding the need for businesses to demonstrate their compliance with certain security requirements to more than one government agency.

According to OTS, feedback from industry on the proposed new arrangements has been generally supportive, although "Several other themes have also emerged including concerns about the cost to business, the need for robust security outcomes,

independent validation, training costs and standards and personnel security requirements (background checking), particularly for businesses with large casual workforces."[122]

The new air cargo security arrangements were originally scheduled to be phased in for outbound international cargo from 1 July 2014.[123] However, following the election of the current Government, this is now unlikely to occur. At the time of writing, no decision has been made in relation to the RSS or EACA arrangements for outbound cargo, and it is evident that the 2013 discussion paper does not necessarily reflect future policy for outbound air cargo as the relevant Minister has requested DIRD to develop further policy options for air cargo security.

5.2. Australian Maritime initiatives

Maritime transport security involves safeguarding Australia's maritime transport system and offshore facilities from terrorism and unlawful interference[124]. The OTS regulates maritime transport security primarily through the regulatory framework established under the *Maritime Transport and Offshore Facilities Security Act 2003* (MTOFSA). This statute was enacted in response to the changed security environment and to fulfil Australia's international obligations with regard to the international regulatory security requirements introduced by the IMO in the maritime transport sector[125].

In 2003, Australia passed the *Maritime Transport Security Act 2003* (MTSA), which gave effect to the ISPS Code. MTSA was extended in 2005 by the *Maritime Transport Security Amendment Act 2005* to cover offshore oil and gas installations, and was renamed the *Maritime Transport and Offshore Facilities Security Act 2003*.

MTOFSA, together with the *Maritime Transport and Offshore Facilities Security Regulations 2003* establish mandatory security requirements for maritime industry participants. Under this regulatory framework, all maritime industry participants undertake risk assessments and implement security plans to address identified risks. Section 10 of MTOFSA defines a 'maritime industry participant' to include:

> A port operator; port facility operator; the ship operator for a regulated Australian ship; the ship operator for a regulated foreign ship; an offshore industry participant; certain contractors; and a person who conducts a maritime-related enterprise[126].

Key features of the MTOFSA maritime transport security framework include:

- flexibility for the maritime industry to develop its own security plans;

- measures that need to be in place at different security levels;

- reporting of incidents and security events;

- the Maritime Security Identification Card (MSIC) scheme. This is a key element of the MTOFSA framework as it provides a nationally consistent identification document which shows that the holder has met the minimum security requirements to remain unmonitored within a maritime security zone;

- enabling the OTS to regulate, monitor and audit security measures to ensure industry compliance;

- the powers and responsibilities of officials;

- compliance checking of regulated foreign ships that enter Australian waters and requirement to provide pre-arrival information; and

- a nationally consistent enforcement regime with penalties that reflect the risk to Australian trade and the public harm that could result from a security breach[127].

Like the international maritime transport security standards, the compliance management approach adopted in Australia does not include the types of AO arrangements that are the subject of this study.

5.3. Australian Customs initiatives

5.3.1. Stakeholder consultation

The CBFCA, ECA, AFIF, CAPEC, SAL, and ACCI are all members of the Customs and Border Protection National Consultative Committee (CBPNCC),[128] which is a forum for the discussion of strategic customs and border protection related issues that affect the trading community, business and import/export specialists.[129] CBPNCC, which does not have any decision-making powers, is chaired by the Chief Executive Officer (CEO) of ACBPS and is the primary channel through which ACBPS engages in ongoing consultation with the industry.[130]

5.3.2. Accredited Client Program

In 1994, following a major review of the then Australian Customs Service (ACS), the Minister responsible for Customs convened a panel of industry representatives to assist in the development of an effective compliance management strategy. The panel's report proposed an approach to compliance management which not only recognised the need to balance enforcement with assistance, but also recognised the benefits of establishing partnership arrangements with the international trading community.[131]

The concept of partnerships with industry was formally announced in 1997 through the release of the Cargo Management Strategy.[132] Under the proposed partnership arrangements, those companies with a demonstrated record of compliance would not be subjected to the same level of scrutiny as those with a history of poor compliance. As a consequence, a key element of the strategy sought to provide highly compliant companies with more latitude to self-assess their revenue liability, by relying primarily on their internal accounting systems and procedures. This in turn, it was argued, would provide compliant companies with a high degree of flexibility in the way in which they would interact with Customs. A key element of the proposed new strategy was the need for the relationship between Customs and industry to be one of partnership and trust. That is, one which reflected a mutual commitment to accountability and improving compliance.

Subsequently, and several years before the WCO introduced its SAFE Framework, Australia initiated the introduction of an 'accredited operator' scheme, which became known as the Accredited Client Program (ACP). "The ACP was based on the philosophy that 'one size doesn't fill all' – some traders import or export more regularly than others, some have better systems for providing information and marking revenue

payments, and others, because of the goods they deal in, pose a lesser risk to the Australian community".[133] The program was designed to provide benefits for Australian importers and exporters as well as Customs. It was intended that importers and exporters with an established record of compliance with customs requirements would benefit through simplified reporting requirements and other benefits, and that Customs would benefit through improved industry compliance and opportunities to focus their compliance resources on high-risk areas.[134]

At the time of its inception, industry played a major role in identifying a range of potential benefits which it considered should be made available under the proposed arrangements, including:

- facilitated clearance of cargo;

- periodic accounting, as opposed to transaction-by-transaction accounting;

- duty deferral arrangements;

- off-setting arrangements under which companies would self-assess any refunds or other moneys due, and pay the net amount to Customs; and

- establishment of a customs 'account manager' to provide the company with a single national point of contact within the customs administration.

A more global benefit which was being pursued as early as 1998, was the facilitated customs clearance of a partner company's exports in the country of destination. Under this proposal, overseas customs agencies would, in effect, accept Australia's low risk rating of a company and, as a result, facilitate the clearance of their goods on arrival.[135]

The ACP was intended to operate through a combination of legislative and contractual arrangements,[136] with the legislative framework being introduced in the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*. Compliance was to be managed through legally binding contracts that would allow accredited clients to use an alternative reporting system for specified goods.[137]

Industry participants worked with Customs over a period of several years with the aim of developing "a program that facilitated streamlined reporting and clearance of import and export goods for low risk traders; while delivering a form of 'duty deferral'".[138] The major industry consultative group was made up of eight pilot partners and their service providers assisting with the program's development. Government consultation principally involved the Australian Bureau of Statistics (ABS) and the then Australian Quarantine and Inspection Service (AQIS).[139] In exchange for maintaining high standards of compliance, accredited clients were to:

- have access to individual case managers;

- be able to provide minimal information at the time of importing via a request for cargo release with other information provided in periodic declarations;

- use an accredited client export approval number to enter goods for export with all information provided in a monthly declaration;

- have goods cleared with minimal intervention;

- benefit from an alternative cost recovery model, based on periodic declarations.[140]

Deferred payment arrangements were a notable exception from the scheme's benefits, due to Treasury's opposition to the proposed initiative. This was considered to be a 'deal breaker' by a number of industry participants.[141]

The APC was never implemented. In 2008, during pre-implementation planning and design consultation with industry and other agency stakeholders, ACBPS (The Australian Customs Service was renamed the Australian Customs and Border Protection Service in 2008) concluded that the cost of implementation of the ACP for both government and business would exceed identifiable benefits, and it announced that the program would not proceed.[142] The CBPNCC considered that the environment had changed since the ACP was first envisaged and designed and that there was limited scope to refine the existing legislation for a different purpose. CBPNCC also considered that the legislation should be repealed and concluded that should legislation be required to support a new program, it would be more effective to purpose-design legislation to meet the requirements of that program.[143]

In September 2012, ACBPS released an exposure draft of the Customs Amendment (Miscellaneous Measures) Bill 2012. One of the amendments proposed in the Bill was the repeal of the legislation which introduced the ACP. The Explanatory Memorandum to the Bill states:

> "The accredited client program was co-designed with industry partners (Business Partner Group) and Government stakeholders to deliver benefits for industry as a trade facilitation measure for highly compliant, low risk traders. Subsequent technology improvements and changes in the policy, procedural and cost environment meant that the program has never been implemented operationally…The amendments contained in this Part repeal the provisions establishing the accredited client program".[144]

In November 2012, ACBPS introduced the Bill to Parliament. The Senate Standing Committee for the Scrutiny of Bills expressed some concerns about the Bill (unrelated to the ACP repeal provisions) and in February 2013 requested the Minister for Home Affairs to comment on provisions that were of concern to the Committee. The Minister responded to the Committee on 6 March 2013.[145] Although the Committee was not completely satisfied with the response provided,[146] the legislation was passed and received the Royal Assent on 30 March 2013.[147]

5.3.3. WCO SAFE Framework

Since the WCO's adoption of the SAFE Framework in 2005, at least 167 countries, including Australia, have signed a Letter of Intent to implement the arrangements which include the concept of AEO.[148] To date, Australia has implemented the majority of the SAFE Framework elements, but has not yet introduced the concept of AEO. This is despite the fact that, during the period 2006 to 2007 ACBPS made the following public statements:

> "Australia's border management agency has a responsibility to support legitimate trade [by] …assisting Australian industry to meet the requirements of overseas authorised economic operator and like arrangements"[149]

"…where trading partner countries are satisfied with the end-to-end supply chain security of an operator, they can offer the prospect of continuing trade in the event of a security incident" [150]

"International recognition of a country's AEO program is critical to the achievement of the program's objectives".[151]

In 2009 and again in 2012, however, ACBPS publicly announced that it would not be introducing an AEO program.[152] The ACBPS decision not to proceed with an AEO program relied heavily on the results of two surveys, held in 2008 and 2011, which are discussed below. Shortly after the 2012 announcement, ACBPS also announced the formal demise of the ACP.

5.3.4. AEO pilot project

In 2006-07 ACBPS conducted an AEO pilot program to examine and consider the options for the establishment of an Australian supply chain security program.[153] The pilot project, which was undertaken over a period of 18 months from July 2006 to December 2007, had two primary objectives:

1. to test and fine-tune the application and assessment processes for security accreditation of importers, exporters and other parties in the supply chain; and

2. to explore opportunities for future mutual recognition arrangements.[154]

The pilot project involved engaging five Australian companies, and their associated service providers to test the application and assessment processes for the purpose of certification under an AEO program. Participating companies were considered to represent a diverse mix of Australian supply chain operations incorporating numerous links in both the aviation and maritime environments.

As part of the pilot, participating companies completed a process of self-assessment followed by a customs assessment, validation and risk assessment. The project adopted a methodology aligned with the WCO SAFE Framework and related programs such as the US C-TPAT program and New Zealand's Secure Export Scheme. The steps in the pilot project were as follows:

1. Company contacts ACBPS and receives security profile templates and guidelines.

2. Company submits completed self-assessed security profile to ACBPS.

3. ACBPS assesses security profile and if sufficient, arranges validation visit.

4. ACBPS visits company site to physically verify and validate the supply chain.

5. Upon positive validation ACBPS and the Company signs partnership MOU.

6. Benefits initiated.[155]

The pilot emphasised the need for a total supply chain security approach to cargo management and a shared responsibility for ensuring the security of trade across all nodes of the supply chain. ACBPS worked closely with the participating companies to develop a joint understanding of the security profiles covering the end-to-end supply chain. These profiles were lodged by industry for initial assessment by ACBPS and were followed by a number of validation visits to numerous sites within their operations.

Information was then compiled from both the security profile and physical validation steps, and subsequently risk assessed through the post validation process.[156]

The project addressed physical security (site security and access controls for staff and visitors), personnel security (vetting, identification, training and procedures), Information Technology (IT) and information security (physical IT security, information security and data integrity), cargo and container security (receipt, storage, sealing, inventory and release of cargo and containers), third party relationships (screening, contract management and monitoring), security planning (planning, contingency arrangements and compliance), and transport (physical security, monitoring, tracking and procedures).[157]

Key features of the AEO pilot project included:

- A focus on security and assurance of trade for both the importing and exporting communities, and the ability to better focus customs resources on high risk targets for intervention;

- alignment with the WCO SAFE Framework, while also recognising and benchmarking against similar international supply chain security programs;

- voluntary participation with coverage in both maritime and aviation sectors; and

- the concept of industry self-assessment followed by customs validation and ongoing review.[158]

Potential benefits that were identified (but not tested or assessed) during the course of the pilot project included:

- reduced intervention and examination in recognition of the lesser risk posed by trusted partners;

- priority service in the event of intervention or examination;

- access to dedicated points of contact;

- mutual recognition amongst trading partners; and

- opportunities for AEO status to aid rapid resumption of trade given limited available resources to deal with security challenges after a security incident.[159]

The ACBPS engagement in the project involved 30 validation visits of pilot partners, 21 validation observations with overseas administrations, over 20 engagements with other agencies, seven validation visits being observed by other agencies, over 20 meetings with international economies, and over 50 direct engagements with industry. The latter ranged from a diverse group of peak or representative bodies, large multinational companies and small to medium enterprises.[160]

Findings published in the 'Authorised Economic Operator Pilot Project Report',[161] released in June 2009, state that, "while accreditation of security measures is achievable, the benefit proposition for investment in AEO by companies and government is yet to be settled".[162] It was also concluded that the absence of an Australian AEO was not causing problems for business at foreign borders and that the pursuit of AEO was not seen as a priority issue for exporters.[163] Accordingly a decision

was taken not to implement an AEO program, but to continue monitoring developments with the AEO concept in other parts of the world.[164]

Following completion of the study, ACBPS wrote to the pilot companies thanking them for their participation and providing them with an indication of their assessment. In one case, the company was advised that, "Australian Customs has determined that there is no reason to suggest that [the company] would not have been granted entry into an Australian supply chain security program if it were fully operational…The outcome of the visits to [the company's] third parties also shows that they comply with the minimum supply chain requirements."[165]

5.3.5. AEO program review 2011

In late 2010 ACBPS established a joint Customs-industry working group to consider options for improving cargo control and clearance arrangements, and to explore possible approaches to address a range of border management, supply chain and facilitation issues. The working group discussed drivers and emerging issues for both industry and ACBPS and broad areas of interest for further work.[166]

The working group noted that a number of developments in the trade and security environment had occurred since the 2009 AEO review, which had resulted in the further development of national and international supply chain security measures.[167] For example, it was noted that the Regulated Shipper Scheme (RSS), proposed by OTS would be likely to provide AEO-like controls in the air cargo environment by providing a means to reduce the threat of improvised explosive devices in air cargo. Recognising the commonality between the RSS and AEO schemes it was considered that it may be appropriate to develop a whole-of-Government position on supply chain security.[168] In this context, one priority identified by the working group was the need to determine whether the case for an AEO program had changed since the earlier review, and whether scope existed to leverage other security initiatives for AEO purposes.[169]

A second review of the AEO concept was planned to consider whether the global expansion of AEO programs presented any new challenges or opportunities for the facilitation of Australian export trade and whether any new impediments were being experienced by Australian traders through not being participants in an AEO program.[170] Specifically, the review was intended to include:

- a survey of large and small exporters and their service providers, to gauge industry experience and perspectives on AEO, current impediments to trade without an AEO program and potential opportunities if a program were to be developed;

- a closer examination of AEO programs within major Australian trading partner economies and benefits arising from program membership, including benefits of mutual recognition arrangements; and

- areas of likely commonality between AEO accreditation requirements and those to be adopted for the RSS, and an assessment of the extent to which a single Australian supply chain security program could address both customs and aviation security requirements.[171]

ACBPS subsequently commissioned the Centre for Law and Economics (CLE) at the Australian National University (ANU) to undertake "a survey of industry attitudes toward an Australian Authorised Economic Operator (AEO) scheme".[172] The results of

the survey, contained in the CLE report, 'A Survey of Australian Industry Attitudes to Authorised Economic Operator Schemes',[173] are reported as follows:

"The main result of the survey was that *none* of the firms that responded to our questionnaire felt that an Australian AEO scheme would offer *net* benefits. Indeed only 8% could see any benefits at all to an AEO scheme, but even then the scheme's costs would outweigh the scheme's benefits. Further only 2% of the companies believed they were suffering a trade disadvantage compared to competitors who were part of an AEO scheme from overseas. Importantly our survey's longitudinal design has enabled us to confirm that amongst those also surveyed in 2006/7 these attitudes to an AEO scheme have not changed over time with none in the longitudinal group perceiving net benefits from an AEO scheme, and none believing they were suffering a trade disadvantage compared to competitors who were part of an AEO scheme from overseas.

Finally only 9% of the firms that responded to our questionnaire felt Australian customs posed a significant impediment to cargo movement; whereas 29% felt foreign customs intervention at foreign borders were a significant impediment. Only 12% however felt government interactions or interventions mattered more than commercial relationships, while 43% thought commercial relationships were more important as a key factor influencing cargo clearance"[174].

In the authors' opinion, the validity of the survey findings is questionable. A key finding, for example, is that "…industry believes the cost of implementing an AEO program will outweigh the associated benefits".[175] However, the survey respondents appeared to be lacking some fundamental information, including:

- what an AEO program is;

- what an Australian AEO program might look like;

- what the costs of such a program may be; and

- what the benefits of such a program may be.

Indeed, even at the time of the current study it is clear that the level of understanding and familiarity with the AEO concept and its potential benefits remains relatively low in the Australian business community.

It is also interesting to note the ANU's survey findings that nine per cent of respondents felt that ACBPS posed a significant impediment to cargo movement. It is understood that there has been no follow-up with the survey respondents to determine the specific nature of their concerns. ACBPS did, however, seek feedback from a number of industry associations as to whether the survey results aligned with the experience and understanding of their members. ACCI and AFIF indicated that the results appeared valid, while the Law Council of Australia (LCA) accepted the results of the survey but considered that there would be a benefit from the adoption of an AEO scheme.[176]

Regardless of how ACBPS reached the conclusion in 2012 that an AEO scheme is not attractive to traders, its decision not to introduce such a scheme at that time does not appear to include an assessment of the purported regulatory benefits espoused by the WCO and other administrations around the world, including the potential to achieve a higher level of visibility into, and control over, the supply chain.

Prior to ACBPS release of the 2012 report, CBPNCC noted that OTS had been provided with funding to progress aviation security through the RSS and considered that "In the future, there may be scope to leverage this for broader purposes and Customs and Border Protection will continue to work with the OTS to explore potential benefits as an AEO equivalent scheme." In this context it was agreed that there would be benefit in being able to obtain recognised equivalence for other schemes.[177]

5.3.6. ACBPS current position

In March 2013, an article in the Australian Financial Review[178] prompted a response from ACBPS which stated, among other things:

"… the new CEO of Customs and Border Protection, Mr Michael Pezzullo, is considering the role of an AEO scheme as part of the Service's broader programme of reform…The extent to which AEO-like programmes could assist with facilitation of low risk goods, and allow Customs and Border Protection to focus our interventions on those shipments which are of greater concern from a risk point of view, will be considered as a key element of that work…Customs and Border Protection liaises regularly with industry on these issues. We welcome any feedback, supporting evidence of disadvantage for Australian traders, or quantification of benefits that may flow from AEO membership, as we consider this important trade security and cargo facilitation issue. As Customs and Border Protection goes about this work, we will of course engage actively and purposefully with all stakeholders, including industry, government and academic expert partners."[179]

Details of the reform program were contained in ACBPS's 'Blueprint for Reform 2013-2018' (Blueprint), which was released in June 2013. In addressing the issue of accredited operator schemes, it states:

"We want the trader experience to be fast and seamless, making business easier and contributing to greater economic growth. We will work with industry to provide trusted and compliant traders with expedited border clearance where they have strong security and integrity practices. We will also increase our work ahead of the border, focusing on Mutual Recognition Agreements with trading partners to acknowledge authorised economic operator and trusted trader schemes that reduce risk to our border."[180]

It is important to note that, while the statement mentions AEO schemes, it does not necessarily imply that ACBPS will implement an AEO program. It does, however, indicate that international dialogue will be entered into in an effort to leverage AEO and similar arrangements by way of mutual recognition.

The Blueprint was discussed at the July 2013 meeting of CBPNCC. The minutes of the meeting report that general discussion took place around different types of trusted agreements and arrangements and that members "expressed the view that all players in the supply-chain need to be accredited",[181]i.e. any scheme should be open to service providers as well as traders. The meeting also expressed the view that adoption of a scheme that is capable of being recognised by Australia's trading partners under mutual recognition arrangements would be likely to bring benefits to exporters as well as others.

The members also "reiterated their desire to 'tell it once' to both the Service and the Government as a whole. Discussion took place around the need for government agencies to work together and reduce duplication in regulation, processes and

information requests. Members said that the priority for their organisations is for government departments to work together in a coordinated way."[182]   The minutes further report that:

> "Members also highlighted the importance of a focus of exports (i.e. 'our export is someone else's import'). There was a concern expressed about costs being pushed out to industry by government, however, there was also interest expressed in further exploring public private partnerships with a focus on return on investment."[183]

Subsequently, the ACBPS CEO made several public statements in which he specifically referred to the Trusted Trader program that was to be introduced, including:

> "We will work with industry to develop schemes whereby trusted and compliant traders, who can demonstrate strong commercial security and supply chain integrity processes and systems, will be offered expedited border clearance."[184]

> "Our aim is to formalise these new conditions and new approaches to trade by establishing - after we research, scoped and engaged with all stakeholders, a trusted trade program. Not just a trusted program. But a trusted trader program. Our aim is for legitimate traders to partner with us to experience an easily understood and simplified border clearance process in which the number and speed of border checks is reduced based on enhanced intelligence…We will work with industry to provide trusted traders with expedited border clearance, where they have strong security and integrity practices and a history of compliance. We will also increase our work ahead of the border, focusing on Mutual Recognition Agreements with trading partners to acknowledge authorised economic operator and trusted trade schemes that reduce risk to our border. This will allow the Service and partner agencies to redirect resources to areas of high risk. The trusted trade programme will focus on border risks, leveraging information and complementing programmes focused on air cargo security risks. The trusted trade programme will also take into account existing global standards such as the World Customs Organization's SAFE Framework of Standards to Secure and Facilitate Global Trade. At the heart of this approach is a paradigm shift, where our relationship with traders is not simply governed by control-based regulation and we begin to move to a differentiated, trust-based regulatory framework.   In other words, it's about changing our relationship from control to trust based regulation that could be applicable to all import streams. Outcomes for trusted, compliant traders may include expedited clearance, priority service and reduced intervention as well as increased certainty, enabling better supply chain management and cost savings. The Service is currently assessing the value of a range of trusted trade arrangements, including arrangements utilising trusted technologies. The range of approaches under assessment includes Public-to-Private (P2P) partnership approaches based on trust, clear accountabilities, shared responsibilities and, where appropriate, supported by trusted technology. Trusted technologies under consideration include 'track and trace' technologies, which could provide significant benefits to consumers, business, the economy and government. These trusted trade approaches could apply across all import streams (air, sea and international mail) and would need to be supported by regulatory and business process reform."[185]

> "The trusted trade programme that we are considering will focus on how best to manage risks in the supply chain. We want to leverage data and industry information and complementary programmes which are focussed on supply chain

risk management. The trusted trade programme will also take into account existing global standards such as the World Customs Organization's Framework of Standards to Secure and Facilitate Global Trade, which was adopted in 2005, and which promotes common supply chain security and trade facilitation standards for goods being traded internationally. We are focussed on how to create trusted relationships with traders and with operators in the supply chain – where the only override is intelligence-led alerts, and risk-based interventions. Trusted traders may be able to access international recognition of trusted status and improved international market access including a reduction in the need for multiple assessments by other Customs administrations, depending on where their supply chains take them."[186]

"We will aim to better connect our systems with those of the private sector, and improve our ability to share classified information with trusted partners."[187]

At the February 2014 meeting of the APEC Sub-Committee on Customs Procedures (SCCP) in Ningbo, China, ACBPS discussed its plans to introduce a Trusted Trader program.   A team of officers has been assembled to progress the initiative and groundwork appears to have been undertaken in terms of inter-agency liaison, both nationally and internationally, the latter relating to potential opportunities for establishing mutual recognition arrangements.[188] In this regard, it is understood that the export elements of the scheme will be based on the WCO AEO concept to ensure that it aligns with existing global standards and international initiatives.

The Trusted Trader program is emerging as the centrepiece of the Trade and Goods reform track outlined in the ACBPS Blueprint and is intended to provide enhanced border clearance privileges to recognised trusted traders in an effort to decrease the administrative and regulatory burden on industry, and increase the international competitiveness of Australian businesses.   It is understood that work on these schemes is in the early design stages, and that industry consultation will play a key role in the program's design.

5.4. Australian Biosecurity initiatives

5.4.1. Export requirements

The *Export Control Act 1982* identifies 'prescribed' and 'non-prescribed' goods, and the regulatory requirements vary depending on the type of goods being exported. Examples of prescribed goods include dairy, live animals, fish, plants and plant products, eggs, meat and meat products, grain, animal food (frozen raw meat), organic produce, fresh fruit and vegetables, pharmaceuticals (raw animal material). Non-prescribed goods are also defined, and provisions may apply depending on the requirements of the importing country.[189]

DAg ensures that exported food and food products meet Australian standards and overseas requirements by way of its export inspection and certification procedures, which include the registration of relevant establishments in the supply chain. The arrangements that are in place are, understandably, product- or sector-specific.

A fundamental requirement applying to exports of all types of prescribed goods is that they originate from and remain in an export supply chain that is comprised of export registered establishments. Product must be prepared, handled and stored in accordance with the requirements of the *Export Control Act 1982*, the relevant Orders and the relevant Australian Standard. There may also be importing country requirements/ specifications that the company must satisfy before the product is eligible for export.

Whilst different DAg requirements apply to different types of export commodities, the Meat Export Program has been chosen as an example for the purposes of this report.

Meat Exports

The DAg Export Meat Program covers exports of meat and meat products, and "provides inspection, verification and certification services to the export meat industry in Australia including:

- the provision of export certification acceptable to Australia's trading partners;

- a scientifically-based inspection system that underpins the production of wholesome meat and meat products;

- a capacity for ongoing scientific review of the inspection system;

- the supply of inspection services and veterinary oversight as required to all establishments registered for export with DAFF; and

- audit activities that verify industry compliance with the *Export Control Act 1982* and subordinate orders, including overseas market access requirements and establishments' Approved Arrangements."[190]

Meat exports are subject to some of the most stringent requirements and industry standards relating to food quality and safety. The relevant requirements applicable to meat exports include applicable export legislation and orders[191] including DAg's 'approved arrangement', Australian food standards applicable to meat, quality and hygiene requirements, export licensing requirements, electronic record keeping, and requirements relating to equipment used for processing meat and meat products.

Additionally, specific requirements that apply to different types of meat (e.g. meat and meat products, wild game meat, poultry meat, and rabbits) are covered in the relevant commodity orders, Australian standards and the Australian food code and importing country requirements.

Whilst some meat exporters may trade in export eligible meat without being involved in the preparation of the meat for export, a meat exporter can operate facilities/ establishments such as abattoirs, boning rooms or cold stores, and some operate integrated operations comprising slaughter rooms, offal processing, boning rooms, and load out operations, and.[192] Such establishments are subject to a range of DAg and meat industry requirements and standards. In particular, such establishments must be 'export registered establishments', operated under DAg's 'approved arrangement' with an exporter or operator of the establishment.

Approved Arrangements – Meat

Under the Export Control (Meat and Meat Product) Orders 2005, the occupier of an establishment engaged in preparation of meat and meat products for export is required to have an 'Approved Arrangement' with DAg. The occupier of an establishment is responsible for development, implementation and maintenance of the establishment's approved arrangement to meet food safety and product integrity requirements and facilitate market access.[193]

The Approved Arrangement must demonstrate that the objectives of the Export Control (Meat and Meat Product) Order 3.1 are met to ensure that meat and meat products intended for export:

- are wholesome or are identified for further processing for food;

- meet the requirements for accurate trade description;

- meet the importing country requirements necessary to maintain market eligibility; and

- are traceable, can be recalled if required and their integrity is assured.[194]

The purpose of the Approved Arrangement (see Figure 9) is to clearly describe those processes and practices which, when correctly applied by the occupier of an establishment, will underpin DAg certification of meat and meat products for export.[195] The Approved Arrangement describes how occupiers of establishments will meet legislative requirements, including assuring compliance with:

- good hygienic practices (GHP) to ensure that food is wholesome;

- the application of Hazard Analysis Critical Control Point (HACCP) for food safety;

- product integrity through the application of product identification, segregation, and traceability practices ensuring that product is accurately described and maintains relevant importing country identification;

- importing country requirements; and

- animal welfare requirements. [196]

Figure 9: Fundamental Components of an Approved Arrangement
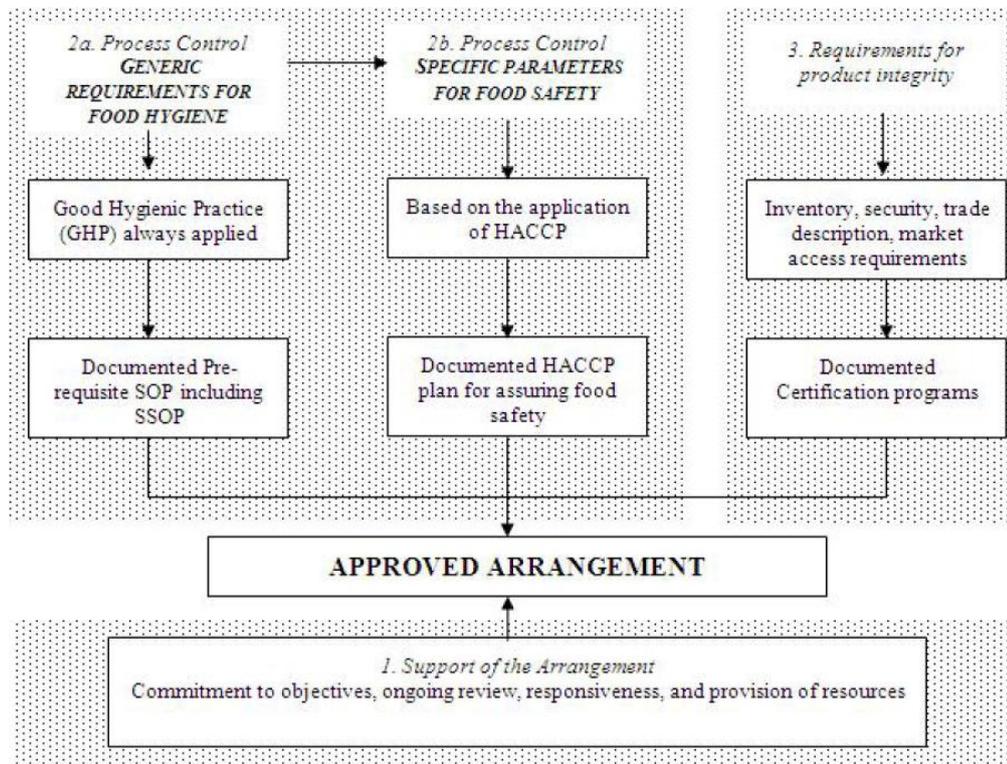
Source: AQIS 2011[197]

The Approved Arrangements recognise the need for the 'whole of chain approach' to ensure food safety and suitability and take into account requirements for communication up-stream and downstream from the establishment.[198]

Meat Export Licensing

In addition to 'approved arrangements', under the *Australian Meat & Livestock Industry Act 1997*, exporters of meat and meat products or a person in management and control of a meat export business must be licensed by DAg.[199] All export meat licence holders must have AUS-MEAT Accreditation before they will be issued with a licence. Potential meat export licence holders are assessed for competency in technical ability as a meat 'packer' or 'non-packer', financial standing and integrity.[200] The holder of a meat export licence (exporters of beef, sheep meat and goat meat commodities) is also subject to DAg orders and directions.[201]

Further, the transfer of meat from one establishment to another requires a Meat Transfer Certificate, and exporters of prescribed goods are required to obtain an export permit from DAg.

AUS-MEAT Accreditation

AUS-MEAT Limited is an industry owned company operating as a joint venture between Meat & Livestock Australia (MLA) and the Australian Meat Processor Corporation (AMPC).[202] The main objective of AUS-MEAT Limited is to manage industry quality standards in an integrated manner and, in doing so, each industry sector is effectively linked ensuring that the two-way flow of vital information is guaranteed and the scope and objectives of each Standard is properly focused.[203] This in turn gives emphasis on:

- adding value for the customers at each stage of the production/processing chain;

- facilitating feedback to the various production sectors of the supply chain; and

- providing the means by which the integrity of each sector can be communicated between members of the supply chain.[204]

Different AUS-MEAT accreditations apply to export abattoirs and export boning rooms, further meat processors (beyond boning, slicing and trimming) and non-packer exporters. Abattoirs and boning rooms that are licensed by State regulatory authorities may also consider AUS-MEAT accreditation adding some value to their operation. These operations voluntarily accept the requirements (and benefits) of being AUS-MEAT Accredited.[205]

AUS-MEAT offers accreditation programs for abattoirs, boning rooms (which are referred to as packer enterprises) and non-packer exporters who trade Australian and New Zealand meat products. All establishments wishing to be accredited by AUS-MEAT must implement an AUS-MEAT approved Quality Management System designed to ensure consistency of quality and accurate trade description. Annex 9 provides an overview of the AUS-MEAT Quality Management System framework.[206]

Australian Export Meat Inspection System (AEMIS)

The Australian Export Meat Inspection System (AEMIS) is a service delivery model established by the Government, in consultation with the Australian meat processing industry, in order to provide meat exporters with certainty regarding meat inspection and food safety verification compliance.[207] AEMIS provides meat processors with the ability to engage qualified people called AQIS Authorised Officers (AAOs), also known as Australian Government Authorised Officers, to undertake meat inspection tasks, giving businesses greater flexibility in how AAOs are deployed when not undertaking meat inspection work.[208]

5.4.2. Import requirements

The Department of Agriculture regulates the importation of goods into Australia through two separate pieces of legislation: the *Quarantine Act 1908* and the *Imported Food Control Act 1992*.

The *Quarantine Act 1908* provides the legal basis for preventing or controlling the entry of people, vessels, goods, animals and plants into Australia, and managing the associated quarantine risks. It also establishes the powers for the Director of Quarantine and quarantine officers to deal with quarantine matters.

Sections 46A and 66B of the *Quarantine Act 1908* provide industry with the opportunity to enter into arrangements with the department to conduct activities associated with imported cargo. These activities include storage, movement, inspection, treatment, or processing of imported goods without direct supervision. An industry arrangement does not, however, transfer the department's legislative powers to industry.

These arrangements set out the expectations of industry and provide requirements that must be met in order to effectively manage the quarantine risk associated with the pathway or activity. A compliance based audit model provides the department with the opportunity to verify compliance with agreed requirements and to reduce regulatory

intervention when compliance is demonstrated. It also provides scope for greater regulatory intervention when compliance is poor.

DAg is also exploring 'alternative' industry arrangements where an organisation has quality systems in place that effectively manage the biosecurity risk of goods to an acceptably low level across the entire supply chain. Whilst no arrangements of this nature have been approved at the time of publication, the intent is that alternative arrangements will be underpinned by strong governance and independent auditing and verification. Alternative arrangements will continue to build on the existing compliance-based audit model to reduce the standard level of regulatory intervention, improve biosecurity outcomes and streamline the importation of goods into Australia.

Stakeholder consultation

DAg also administers an imported food safety inspection program known as the Imported Food Inspection Scheme (IFIS), which has its legal basis in *the Imported Food Control Act 1992*.[209] This legislation places on importers the responsibility of ensuring that all food imported into Australia complies with relevant standards in the Australia New Zealand Food Standards Code.[210]

An independent review of Australia's quarantine and biosecurity arrangements recommended the establishment of a Biosecurity Advisory Council (to replace the then Quarantine and Exports Advisory Council) to provide strategic and policy advice on biosecurity issues to the Minister for Agriculture, to the National Biosecurity Commission and to the Director of Biosecurity. It also recommended that the Council "consist of non-representative members with a broad range of skills in biosecurity and related disciplines drawn from the Commonwealth and state and territory governments, business, academia and non-government organisations".[211] It further recommended that "Commodity and/or sector based Industry Consultative Committees should continue to discuss operational biosecurity issues including the delivery of services and cost recovery for those services".[212]

The Biosecurity Advisory Council (BAC) was established in January 2010 and ongoing industry consultation is achieved through stakeholder interfaces including, but not limited to the following groups and committees:

- Biologicals Consultative Group;
- Grain Industry Consultative Committee;
- Horticulture Exports Consultative Committee;
- Cargo Consultative Committee;
- Dairy Export Industry Consultative Committee;
- Export Meat Industry Advisory Committee;
- Horse Industry Consultative Committee;
- Imported Food Consultative Committee;
- Livestock Export Industry Consultative Committee;
- Post Entry Plant Industry Consultative Committee; and
- Seafood Export Consultative Committee.[213]

Biosecurity reform agenda

In December 2009, the then Australian Quarantine and Inspection Service (AQIS) described its new risk-based approach to cargo intervention and advised that different approaches, sampling and best practice methods had been trialled in order to forgo 100 per cent intervention. AQIS also advised that there would be lower levels of intervention and that it was adopting a "cautious approach".[214]

In 2012, DAg initiated its biosecurity reform to meet the "increasing demand from international trading partners for greater levels of assurance in relation to Australia's exports" and "to ensure the biosecurity system is effective and sustainable into the future".[215] According to DAg, "Changing global demands, growing passenger and trade volumes, increasing imports from a growing number of countries, population expansion and climate change mean that biosecurity risk is growing".[216] The biosecurity reform program is supported by the introduction of new legislation, which is designed to deliver "broader, yet simpler provisions that provide flexible powers to efficiently and responsively manage biosecurity risk and promote effective cooperation between government, trading partners, industry and the community".[217] The new Biosecurity Bill 2012 [2013] was introduced to Parliament in 2012.

DAg has indicated that its reform agenda "focuses on building a sustainable system that manages risk across the continuum to better support consistent service delivery onshore, at the border and offshore. It focuses on providing effective biosecurity risk management underpinned by sound evidence and policy, improving the efficiency and responsiveness of operations and strengthening stakeholder relationships".[218]

Implementation of such a risk-based approach is a central component of DAg's biosecurity reform program. According to DAg, "Biosecurity is continuing to pursue risk return which means that the move will continue towards looking less at low risk areas and items and more at higher risk, or where a weakness has been identified … These measures are estimated to result in savings to industry through reduced inspection charges and less transport and handling costs, and importers will receive their cargo sooner with less intervention".[219]

In March 2012, DAg Biosecurity advised CBPNCC's Combined Service Delivery and Administrative Policy and Legislation Sub-committee that it was in the process of developing a practice statement that would outline how the level and frequency of intervention would vary in accordance with the assessed risks of both the importer and the imported goods. It further indicated that if organisations could provide DAg with high levels of confidence that biosecurity risks are being appropriately managed, then it would reduce its level of intervention. According to DAg, this provides "significant incentives for industry to set up and maintain strong frameworks and demonstrate compliance with regulatory requirements".[220]

DAg released its 'Biosecurity Compliance Strategy: A plan for managing compliance and enforcement in Australia'[221] in March 2012, which signalled that DAg would start considering risk and intervention by entity.[222] The Biosecurity Compliance Strategy provides, among other things, DAg support for compliant stakeholders by:

- working with clients and stakeholders to gain an understanding of systems, and commercial processes and priorities, which affect their decision making;

- streamlining regulatory processes and developing and tailoring incentives to encourage mutual benefits of compliance with Australia's biosecurity requirements; and

- designing and entering into arrangements with key stakeholders that bind the party through legislation and appropriate business incentives for continued compliance, underpinned by robust audit systems and fit and proper person requirements.[223]

According to DAg, its revised import activities have already served to reduce the regulatory burden on compliant members of the international trading community while ensuring effective management of high-risk consignments and targeting non-compliant (i.e. high risk) importers.[224] It is understood that DAg is further reviewing its risk-based approach to compliance management and, among other things, is examining the concept of 'trusted traders'.

Food import requirements

DAg's role in regulating imported food includes ensuring that imported food meets Australia's biosecurity requirements and the requirements of the *Imported Food Control Act 1992*.[225] For food imports, DAg runs an imported food safety inspection program known as the Imported Food Inspection Scheme (IFIS), which has its legal basis in the *Imported Food Control Act 1992*.[226] This legislation places the responsibility on importers of ensuring that all food imported into Australia complies with relevant standards in the Australia New Zealand Food Standards Code.[227]

Under the *Imported Food Control Act 1992*, food importers may enter into a Food Import Compliance Agreement (FICA) with DAg. These are regulatory arrangements whereby DAg recognises an organisation's documented food management systems for sourcing and importing their food.[228] Through such recognition, DAg is able to minimise unnecessary regulatory burdens on Australian food importers. "These arrangements are underpinned by recently amended legislation and a robust audit regime and provide an alternative to the current regulatory arrangement in Australia which relies solely on inspection and testing of imported food at the border".[229] Under these arrangements the importer's food management system is regularly audited by DAg, but imported food products are not subject to testing under the IFIS.[230]

Food Import Compliance Agreements

A Food Import Compliance Agreement (FICA) is an assurance and audit arrangement whereby importers of food are able to obtain formal recognition of their food management system. Compliance agreements provide food importers with an alternative arrangement to the inspection and testing of their products under the IFIS.[231] DAg has reported that many importers see FICA as providing faster and more convenient clearance of their products into Australia.[232] According to DAg, if a business already has a documented food management system that ensures that food complies with Australia's import standards, then a FICA may be suitable for that business. Under a FICA, DAg will recognise an importer's documented food management system for sourcing and importing. Consequently, DAg will reduce the rate of regulatory intervention the supply chain of a business that has a FICA.[233] In other words, FICAs provide food importers with an alternative arrangement to the inspection and testing of their products under the IFIS.[234]

Importers of food must have a documented food management system that verifies that their imports comply with the Australia New Zealand Food Standards Code, which covers aspects such as:

- approved supplier programs;

- product specifications;

- verification that food received complies;

- corrective action procedures to address non-compliance when found; and

- traceability and stock control processes.[235]

Accordingly, one of the key features of a FICA is a documented food safety and compliance system (FSCS). The FICA requirements for a FSCS are based on Australian Standard ISO 22000:2005 (Food Safety Management Systems-Requirements for Any Organisation in the Food Chain).[236] A FSCS would typically address a number of matters such as management practices, resource management, document and data control, food safety and compliance assessment, manufacturer assurance, verification, process control, control of non-compliance and DAg notification requirements.[237] This includes requirements for:

- manufacturer assurance;

- food safety and compliance assessments;

- process control (on arrival clearance);

- traceability; and

- verification.[238]

As a voluntary arrangement importers are required to submit an application to DAg to enter into a FICA. However, any food imported under a FICA is still subject to Australia's biosecurity requirements under the *Quarantine Act 1908* and its subordinate legislation.[239]

5.5. Australia's Free Trade Agreements

There are clear indications that the concept of 'trusted trader'/'trusted service provider' is emerging as a component of Free Trade Agreement (FTA) negotiations. From an Australian perspective, this is already occurring, with DFAT noting that concepts such as 'approved exporter', 'registered exporter' and 'registered operator' are impacting on discussions relating to the customs aspects of the Trans-Pacific Partnership (TPP) and the Regional Comprehensive Economic Partnership (RCEP). While DFAT is yet to clarify how these concepts may be reflected in these agreements, FTA negotiators appear to be considering giving recognition to 'approved' or 'trusted' traders as a trade facilitation measure within the disciplines of the agreements. As mentioned above, the WTO Trade Facilitation Agreement specifically uses the term 'authorised operator'.[240]

Despite this, there is no suggestion of mandatory implementation of either AEO-type programs or MRAs in the agreements currently being negotiated. In relation to the terminology used in the draft agreement, it appears that the parties are avoiding the use of the term 'AEO' due to its regularly changing definition in WCO documentation. In

this regard, it is pertinent to note that, unlike the WTO Conventions, the Framework of Standards has no legal status or associated dispute resolution arrangements. Consequently, the negotiators' decision to avoid using terms that have their foundation in the SAFE Framework is considered to be a prudent one.

6.   Australian industry position

The following represents feedback from industry focus groups, consultations with industry associations and representative bodies, interviews with Australian companies, and survey responses.

To protect the confidentiality and interests of interviewees and survey respondents, the views and comments expressed in this section are not attributed to any specific sources unless express permission to do so has been given.

There are approximately 250,000 'active'[241] importers and 43,000 active exporters (excluding exporters of services) in Australia.[242] The vast majority of these make ten or less customs declarations per year. About 6,000 importers and 1,400 exporters make 100 or more declarations per year, and some 450 importers and 100 exporters make 1,000 or more customs declarations per year.[243]

Figure 10 shows the principal destinations for goods exported during the 2011-12 financial year.

Figure 10: Australian Exporters of Goods by Country of Destination 2011-12[244]

Country of Destination	No. Exporters
New Zealand	16,449
United States	8,797
Singapore	6,226
China	5,493
Papua New Guinea	4,967
United Kingdom	4,759
Malaysia	3,616
Germany	2,598
Indonesia	2,584
South Africa	2,320
Canada	2,309
South Korea	2,239
India	2,125
United Arab Emirates	2,124
Taiwan	2,027

Source: ABS (2013)[245]

6.1.1. General observations

It is clear from the various industry consultation initiatives undertaken during the course of the study that the Australian industry's level of understanding of and familiarity with the AEO concept and its potential benefits is low. In general, customs brokers appear to be the best informed of the industry sectors, with Australian traders showing little understanding of international initiatives and how they may impact on their operations. In particular, very few traders were aware of the AEO concept, with some multinationals being the exception.

The majority of participants did, however, demonstrate knowledge of the OTS air cargo initiatives, and those in agribusiness appeared to have a good understanding of biosecurity and other DAg requirements. Similarly, traders appeared to be relatively well versed in customs aspects of international trade, regardless of whether they use the services of customs brokers or other service providers.

The feedback received during the course of the study reflects an expectation that some form of AEO scheme will be introduced in Australia, based on the statements made in the Blueprint. The feedback also reflects the assumption that product- and sector-specific arrangements will continue to be required by DAg; and that air cargo security reforms will be progressed by OTS in consultation with industry.

It is interesting to note that some companies agreed to be interviewed and be used as case studies in this project, but later declined to participate in the context of a case study due to concerns that the sensitivity of the matters raised may be seen as a criticism of ACBPS and other agencies, and may jeopardise their existing relationship with those agencies. This underlying fear of retribution suggests that there exists a degree of mistrust between industry and Government.

Finally, two respondents commented on DFAT's involvement in the development and promotion of an AEO program, one stating that there should be "stronger involvement of DFAT in promoting an AEO program" and another that DFAT "should be more strongly involved in AEO discussion".

6.1.2. Does Australia need an AEO scheme?

Despite the fact that ACBPS has announced its intention to introduce a Trusted Trader program, there remained some debate in focus groups and other forums as to the desirability of such a scheme.

Most traders and service providers who believe there is a need for an AEO program in Australia were unsure of the specific benefits it would provide to Australian traders. However, they expressed a concern that failure to implement an AEO may create market access issues, delays in clearance, and lead to additional costs, which could undermine the ability of Australian businesses to compete internationally. Several respondents stated that an AEO program would be desirable if it helps to "remain competitive and keep access to export markets" or allows companies to "take advantage of other markets where AEO programs exist today".

One freight forwarder was of the view that an AEO program, if approached on a whole-of-Government basis, should help reduce the compliance burden faced by businesses, particularly when a company is required to adhere to several compliance regimes that are administered by a number of government agencies. Another freight-forwarding company stated that "AEO certification already has been approved for most of our operations including NZ. Expanding this programme is a key focus and on the action business plan for Australia from our Global Leadership team."

However, some traders suggested that an AEO program would add more costs and more red tape, simply to comply "with the aspirations of the United States".

One respondent, whose views were reflected in feedback received from a number of others, cautioned that Australia should not attempt to "reinvent the wheel" and urged the authorities to learn from overseas experiences and other countries' mistakes with AEO programs, thereby focusing on improving what has already been tried and tested.

A number of traders, service providers and industry bodies were opposed to the introduction of a mandatory program, but would support a voluntary scheme.

6.1.3. Disadvantages in the absence of an Australian AEO scheme

There is no evidence to indicate that, to date, Australian companies have experienced any disadvantages resulting from the absence of an Australian AEO-type program. However, the view was expressed by some traders and service providers that, due to the potential disadvantages to Australian exports of not having access to a national AEO-type scheme, exports should be included in any future arrangement. The principal concern expressed is the lack of opportunity for Australia to negotiate mutual recognition arrangements with key trading partners, which may impact on Australian industry's competitiveness in overseas markets.

One survey respondent stated that they foresee Australia "being placed in an uncompetitive position in the future without at least a limited scheme", while another indicated that Australia "should not be one-out on the world stage". A customs consultant indicated that although this has not yet occurred, they fully expect some of their "clients to be excluded from valuable supply chains as AEO certification increasingly becomes the standard for international trade". In this regard, a freight-forwarder/customs broker reported only two enquiries from overseas parties as to AEO status in the past 10 years, while a trader with headquarters in the US reported more frequent enquiries of this nature. Another freight forwarding company commented that "AEO accreditation confirmation forms part of the initial request for information in the tender process".

A number of companies indicated that they experience difficulties with Customs in overseas markets and, while no specific incidents were identified as being due to the lack of an AEO program, they felt that if an Australian AEO program could provide an opportunity to do business easier and faster overseas then such a scheme should be introduced. Another commented that an AEO-type scheme would help to "avoid being uncompetitive against international competitors who already have AEO in their own countries".

6.1.4. Public-private sector relationship

A common theme throughout the research (in the company interviews and survey in particular) is that the relationship with Australian Government agencies could be significantly improved. For example, one respondent stated that there are "ongoing issues with government regulators as a result of insufficient involvement with industry prior to introduction of new initiatives". And, as previously noted, some companies were concerned that any public criticism of the authorities may adversely affect their relationship with the regulator concerned.

Some respondents questioned the ability of OTS and ACBPS to competently assess the security aspects of their businesses. Others were more forthright: "I don't believe any initiatives rolled out by either ACBPS or DAFF have been 100% successful"; "a one size fits all template is utilised"; "little experience either in the industry or commercially"; "not enough 'corporate' thinking"; "lower than desirable levels of common sense"; "bureaucratic"; "not very efficient"; "insufficient manpower". Some traders felt unfairly treated or victimised, with one relating an experience of vindictive treatment from an official against whom he had made a complaint.

On the other hand, several focus group participants were "cautiously confident" that the new management arrangements in ACBPS would help to ensure that the proposed reforms, including the Trusted Trader program, became more than "the rhetoric which we have all seen before". Also, a number of industry participants indicated that an AEO scheme may provide an opportunity to improve public-private sector relationships. For example, one respondent stated that "implementing an AEO program would be educational for industry and government. The dialogue should be beneficial to both sides and, ultimately, lead to safer supply chains and community. Authorities will have to develop new skills to do this effectively."

Several respondents indicated their willingness to work with ACBPS and other agencies and, where appropriate, educate officers in specific operational and technical matters relating to their business. In this regard, IBM (see company profile at Annex 6A) notes that formal customs-to-industry engagements, such as AEO schemes, often provide a number of indirect benefits for both industry and Government. According to IBM, these include:

> "improved understanding by customs of modern supply chains and trade compliance commitments of multinational companies, recognition and involvement of industry in the development of individual AEO programs (including assistance with customs to customs mutual recognition efforts), a competitive advantage element as industry seeks out 'AEO ready' partners and suppliers. In addition a mutual understanding of the dynamic between trade compliance and security imperatives, particularly from a risk management perspective, has been greatly improved through these formal customs to industry engagements."[246]

6.1.5. Scope, focus and detail of an Australian AEO program

There is a considerable diversity of views in relation to the potential scope of an AEO scheme, much of which may be attributable to the fact that no clear options have yet been presented to industry. This diversity of views is possibly also reflective of the different perspectives of the various sectors of industry.

1. **Program Focus**

The question of whether an AEO scheme should relate to imports, exports or both attracted considerable debate. The potential disadvantage to exporters of not having access to a national AEO-type scheme is generally seen to be a clear driver to include exports in any arrangement, as previously discussed. However, those involved in importing have indicated that such a scheme should also include imports.

Feedback received suggests that the potential benefit to importers is questionable if the focus is simply on ACBPS clearance procedures, as these are generally considered to be quite efficient, and several participants pointed to the fact that it was a perceived lack of benefits that caused the ACP arrangements to fail (note that potential benefits are discussed below). Several focus group participants indicated that, while benefits for exports may be evident, those for imports are not. Comments include: "in the import environment, participation in an AEO scheme would not be likely unless there were real benefits to be had"; "benefits must be tangible"; "Customs must be prepared to pay more than just lip-service to any benefits"; "potentially, significant benefits could be provided to compliant operators"; and "benefits on import shouldn't be restricted to importers – customs brokers should also be able to receive preferential treatment".

Some industry participants believe that it is not necessary to include imports in an AEO scheme. Comments include "benefits hard to identify" and AEO creates "unrealistic expectations for quicker clearance". However, overall, the survey respondents and focus group attendees generally support the inclusion of both imports and exports in an Australian AEO program.

The background materials provided to participants noted that the principal criteria for mutual recognition are those related to security, and that if an Australian scheme did not extend to imports, it would most likely be sufficient to focus on security criteria. However, if imports were to be included, there would doubtless be a need to include trade compliance as a prerequisite for accreditation. Industry feedback indicates that such a proposition is appropriate, and industry comments suggest that the logical focus of an import program is trade compliance rather than security.

Several traders and service providers have suggested that an AEO scheme that applies to exports only and which focuses solely on security, should be relatively easy to implement, and that the OTS air cargo security regime could be used as a model for developing such a scheme.

2. Membership

The majority of those who see merit in an AEO-type scheme have indicated that program membership should be open to both traders and service providers, as "all play an integral role in the supply chain". Feedback has included support for the accreditation of importers, exporters, manufacturers, customs brokers, freight forwarders, carriers and even consultants. One respondent commented that, "if the chain is not fully accredited it will be a waste of time and money". Industry associations and chambers of commerce were also mentioned among those who should be eligible to apply for AEO status.

Some participants have pointed to the fact that service providers are already included in the arrangements operated by OTS (in the form of AACAs and RACAs) and in the DAg export arrangements, as both agencies are focused on the security of the entire domestic supply chain from exporter to carrier.

Several customs brokers and freight forwarders indicated that as shippers and importers generally use their services, they may expect to access AEO benefits through their service providers' accreditation rather than become an AEO in their own right. This was seen by some as a 'value add' proposition which may provide a marketing advantage. Others, however, saw this as an added regulatory burden which traders may come to expect to be the norm. In this regard, an exporter commented that it would expect that any benefits and subsequent cost savings conferred by AEO membership to services providers such as freight forwarders, will be passed on to them.

The point has also been made that an Australian AEO program should recognise the interests of SMEs. Whatever costs may be involved in achieving AEO or trusted trader status, a small or indeed medium-sized trader may not consider it to be worthwhile. However, an issue that has arisen during the course of the research is that an 'authorised' service provider should, where sufficient safeguards have been shown to be in place, be able to provide an SME with a conduit into a recognised secure supply chain. As such, an SME whose standard procedure is to export via an accredited entity should be eligible to attain AEO or trusted trader status for export activity adhering to such standard procedures.

3. AEO criteria and cross-agency recognition

A key issue that has arisen during the course of the research is the degree of commonality between the DAg and OTS export arrangements in terms of the criteria for accreditation under the two schemes, both of which aim to provide assurances about the security of the supply chain. Similarly, the security-related criteria that are expected to be attached to an AEO-type scheme are likely to reflect some of the criteria applied by DAg and OTS. Consequently, the majority of respondents have indicated that any new program should include provisions for intra-agency recognition of an entity's status, at least to some degree.

Many industry participants have indicated that when ACBPS assesses the systems and procedures of an exporter or service provider that is seeking AEO status, it should take into account the company's existing accreditation with other agencies. A number of participants who are RACAs and AACAs, for example, felt that they should not be required to demonstrate their level of security compliance "from scratch", and that their RACA or AACA status should be sufficient to satisfy some, if not all, AEO requirements.

Other responses also reflect the view that existing accreditations and licences (both Australian and international) should be recognised in an Australian AEO program. Comments include: "we should leverage everything we have in place and put it into the AEO structure so that getting into the program is as streamlined as possible"; "encourage agencies to pool existing information rather than require re-submission for an AEO program"; "any new program would need to fully acknowledge and recognise the OTS and DAFF certification process as credit for AEO status"; "designing a single assessment scheme to serve multiple regulatory objectives"; "companies with other certifications (in other countries or in other agencies programs, ISO, etc.) in place should be given accelerated or expedited certification in any new Australian program"; "good idea to leverage RACA on export and combine with best maritime security practices"; "should be able to gain exemptions for successful accreditation under existing regimes such as RACA and TAPA"; "compliance should be reasonably easy to establish based on current import/export data held by Customs and by DAFF and fairly simple audit of the client"; "would like to see cross-government accreditation not multiple accreditation schemes that ultimately have the same result"; and "an AEO program would work much more efficiently if there was one "window" to Government whereby we could deal only with one entity which could embrace Customs/ DAFF/Transport".

A number of participants further indicated that customs broker licensing "should be leveraged to utilize their 'trusted' status as way to augment government activity in rolling out an AEO program". Similarly: "Customs brokers are the most highly regulated of any members of the trading community, and Customs should take that into account"; and "With the new CPD requirements, most customs brokers should automatically qualify".

Within the focus groups, company case-studies and in survey responses a number of comments related to the need for a more consistent, coordinated approach by Australian Government agencies. Some respondents felt that accreditation as an AEO should be recognised across the Government, providing easier access to other AO-type programs and other schemes that require Australian Government authorisation. Examples given as to where harmonisation and potential synergies may be identified include: OTS air cargo security arrangements such RACA, AACA and Regulated Shipper;

warehouse and depot licencing arrangements; State/Territory Police firearms dealers' licencing arrangements; DAg meat export licencing; industry standards accreditations (e.g. for meat exports), and other DAg approved arrangements.

Almost all survey respondents indicated that it would be highly desirable to establish consistent accreditation criteria across different government supply chain security programs. One respondent stated that "for an AEO scheme to work, the policy level needs to adopt a consistent, multi-agency approach (DFAT, ACBP, DAF.....)". However, while industry clearly sees the benefits of a 'whole-of-government' approach, there is considerable scepticism about the ability of government agencies to work together.

4. Potential Benefits

A common theme throughout the research is that a new partnership program, such as the AEO, should provide an opportunity for industry participants to gain access to trade facilitation measures (both in Australia and overseas) and other tangible benefits. Many of the respondents have indicated that, in general, any measures that help expedite the border clearance process in Australia and overseas would be welcome. One respondent has even suggested "free export sales assistance" through agencies such as Austrade as a benefit. The following summarises the broad range of potential benefits identified during the course of the research.

Reduced physical inspection/examination of imports into Australia

There is broad agreement that AEO benefits should include lower inspection/ examination rates for imports for both customs and biosecurity purposes, and that the likelihood of random inspection should be measurably lower for AEOs. One trader suggests that random inspections for AEOs should be undertaken at the importer's premises rather than at the border. Related comments include: "streamlining of unnecessary red tape items"; "less compliance issues allowing industry to do its job"; and "any AEO preferential processing or clearance of cargo will only deliver a real time advantage if DAFF barrier processing schemes form part of the benefit to be delivered. Border impediments mostly relate to DAFF and import permit issues".

Priority inspection for imports into Australia if a customs examination is required

Priority processing and inspection of consignments on a priority basis is seen as a potential AEO benefit. Industry participants recognise that examinations will be required from time to time, but feel that AEOs should be given 'head of queue' treatment in such situations.

Expedited ACBPS processes to resolve queries

A similar issue to 'priority inspection'. It is generally recognised that queries will be raised by ACBPS and DAFF from time to time, but feel that AEOs should be given 'head of queue' treatment in such situations.

Priority processing of applications for advices and rulings

It has been reported that processing of tariff advices, TCOs and valuation rulings by ACBPS currently takes between 60 and 70 days. It has been suggested that AEOs should be given a guaranteed turn-around time of, say, two weeks. Such advices and rulings are required to provide traders with certainty and clarity, and "tardy advice has a significant impact on commercial decision making".

Priority processing in the event of trade disruption and/or elevated threat levels

Priority treatment following a security incident or trade disruption is considered to be a benefit by some traders, although some have described this as a "stocking filler" that simply makes the list of potential benefits look "more impressive".

Reduced fees and charges

The majority of industry participants would like to see a reduction in processing fees and charges. Several consider this to be an achievable benefit, given that the low-risk status of AEO consignments should imply a need for less regulatory resources (e.g. cargo examinations).

Deferred duty arrangements

Deferred duty and GST payment arrangements were among the benefits mentioned most frequently in the responses. While periodic reporting has also been raised, it is evident from the feedback received that for most operators, periodic reporting is less of a priority than deferred duty arrangements, with some stating that periodic reporting would represent an impost as their systems were set up to report on a transaction basis. Also, some noted that GST deferrals were more of a priority than duty deferrals, due to amounts involved.

Several industry participants noted that periodic reporting and deferred duty arrangements were rejected by Treasury when the ACP was introduced, but consider that falling revenues from customs duty may provide an opportunity to re-open the debate and provide companies with an opportunity to account for these payments in their monthly or quarterly Business Activity Statement (BAS).

Simplified procedures

Expedited refund of export GST was raised as a potential AEO benefit, as was "a simpler way of claiming duty drawback".

Dedicated liaison person within ACBPS

This point relates to the ability to have a single point of reference such as an account manager or dedicated liaison person within ACBPS who would promptly resolve queries and "provide advice relating to customs compliance matters at home and overseas". For instance, an importer of firearms, Shooters Wholesale Warehouse, (see company profile at Annex 6B) has indicated that being able to liaise with a dedicated officer or group of officers with would significantly facilitate the clearance process.

Reduced post entry audits or exemption from post entry audits

One trader has suggested that AEOs should be entitled to "removal from (the) audit pool" or exemption from being audited. Others have indicated that AEO status should guarantee a reduced level of post entry audits.

Improved relationship and greater trust between Government and AEOs

As mentioned above, several industry participants have indicated that there is scope for improvement in the relationship between industry and Government. Greater trust between traders who are AEOs and government authorities (ACPBS and DAg in particular) is seen as a significant 'indirect' benefit an AEO scheme could offer. This

could also include better exchange of information and communication between AEOs and the authorities. One respondent has suggested that AEOs should receive "pre-alerts and costs on AQIS or other permit controls needed prior to export from origin or at the control point in Australia".

Authority to issue declarations of origin

One suggestion received is to permit AEOs to issue origin documents for tariff preference in-house. "An AEO should be qualified and authorised to issue invoice declarations of origin rather than needing to obtain certificates of origin from relevant Chambers of Commerce or similar agencies for a fee". Such a practice would provide time and cost savings associated with origin documents. ACCI has also indicated that there may be scope for including rules of origin aspects in an AEO scheme.

Overseas benefits

In general, Australian industry would expect faster and less restricted movement of international trade between approved participants (AEOs) and their overseas clients in countries where AEO schemes already exist. Apart from mutual recognition arrangements, a reciprocal membership of counterpart AEO programs in trading partner countries was mentioned as a potential benefit. This point relates not only to interventions by customs administrations, but other border agencies such as health authorities. One respondent has suggested that an AEO program should provide "door to door distribution without inspection depending on the type of product".

Streamline processing such as expedited/priority inspection/clearance by customs and border agencies overseas was also identified. One respondent has stated that if security and compliance processes both in Australia and overseas are not significantly improved then AEO status would be "a waste of time and money".

Other overseas benefits raised by participants include expedited processes to resolve Customs queries overseas, and reduced documentary requirements.

Fast-track passenger service at airports

It has been suggested that fast-track passenger services should be provided at international airports in Australia and overseas for AEO-company executives and other staff, especially when carrying company equipment, merchandise and commercial samples (Note: the Korean AEO program includes a CEO VIP channel at airports).

Authority to 'recognise' or 'validate' customers

The ability for certain AEOs to accredit or validate companies that also wish to become AEOs was mentioned by several respondents. This could potentially apply to situations where large AEO companies would be able to validate or give a similar status to their SME customers. It was also suggested that ACCI should be able to accredit and/or validate companies as AEOs.

Cross-agency recognition of AEO status

Responses from industry participants indicate that there should be an ability to use AEO status for other types of licencing or accreditation schemes administered by ACBPS and other agencies. As previously noted, examples suggested include: RACA, AACA, RSS, warehouse and depot licencing; firearms licencing; meat export licencing; industry standards accreditations (e.g. meat exports), and other DAg approved arrangements.

Other

Other suggested benefits include increases in duty credit limits and access to ACBPS resources for after-hours clearances. One respondent has suggested that when a licensed customs broker pays GST and duty on behalf of the importer to facilitate clearance of a client's imports, the broker should be able to claim the duty and GST as a taxable input in their BAS.

5. Cost

Several respondents have indicated that the costs associated with AEO accreditation should be minimal because "Australian exporters are already finding it difficult to do business", and that cost would be a factor in deciding whether to apply. Some feel that the required costs, time and energy "would be excessive". Others, however, have stated that they would be willing to incur 'reasonable' costs provided tangible benefits were available. One respondent stated that "there should be no more costs than currently exist with the RACA scheme".

A service provider stated, "[traders] are already complaining about the additional costs imposed on exporters with regards to the upcoming changes to Air Cargo Security. This will just be another added cost that will impact the costs of their exports". In this context, a number of participants commented that the cost of accreditation could be minimised if appropriate recognition for an applicant's status in other programs (such as (RACA, AACA) were recognised.

Costs relating to other AO schemes such as RACA, AACA and RSS were also raised, and it has been suggested that as, any investment of a one-off nature (e.g. equipment, infrastructure) will need to be off-set against the volume traded, companies with large economies of scale are likely to be more willing to make the necessary investments, whereas those who operate on a smaller scale may be unable to do so. Such comments reflect the views of several freight forwarders who expressed their concern about the new mandatory air cargo arrangements. In this regard, it was suggested that an AEO program may prove disruptive for smaller SME-type freight forwarders if its conditions were to match those of OTS, which is likely to require agents to procure expensive scanning equipment at a cost of approximately $250,000 per scanner.

6. Mutual recognition

Two key issues were raised in relation to mutual recognition arrangements, in the event that Australia was to adopt an AEO-type scheme. First, the need for certainty that mutual recognition arrangements will in fact expedite the movement of freight without unexpected impediments. Second, the expectation that Australian exporters would be granted access to reciprocal programs in other countries, including any associated facilitation benefits.

Countries most frequently mentioned in relation to priorities for mutual recognition arrangements were China, USA, the EU, Japan, Indonesia, and Singapore.

Other issues

Some businesses are cynical about Customs' ability to facilitate trade and fear that an AEO-type scheme may lead to the creation of more red-tape, especially if it fails to recognise existing security-related arrangements that have been implemented for commercial reasons (e.g. insurance, secure packaging, secure access), or to comply with the requirements of other government agencies such as OTS and DAg.

As Australia's policy with regard to AEO has not yet been defined, there is much uncertainty about what the program may look like, and there is clearly some fear of change.

7. Emerging Trends

Clear trends are emerging from the evolution of the SAFE Framework and the national initiatives which have been implemented under it. More and more countries are implementing AEO programs, with a broadening scope, and it appears that advance data filing requirements and mutual recognition arrangements are beginning to have real impact on traders. From an exporter's perspective, having a consignment deemed low-risk at destination implies a more rapid and predictable customs clearance. At the same time, increased air cargo security requirements (e.g. known consignor or regulated shipper) and destination countries which require electronic pre-departure data make it more difficult for the export to leave the country of departure without meeting international requirements.

In the world contemplated under the SAFE Framework, where a high-risk consignment is one "for which there is inadequate information or reason to deem it as low risk", the exporter is more likely to face delays and costs associated with inspections if its exports are not recognised as low risk by the destination country.

Japan, the EU and the US all have introduced mandatory electronic pre-arrival notification requirements in recent years, and they continue to expand their coverage across different transport modes, and are moving to strict enforcement. They have also introduced voluntary programs under the SAFE Framework AEO standards and have seen them widely adopted among both traders and service providers alike. Mutual recognition among the three programs has been established, and implementation of differentiated risk targeting between the consignments of qualified AEOs and non-AEOs is in its early stages.

The concept of the 'Authorised Supply Chain' is therefore becoming a reality—so much so that these economies are making it a part of ongoing negotiations for new trade agreements, including the TPP. China and India already have AEO programs, the North America Free Trade Agreement (NAFTA) countries are actively working on regionally-integrated supply chain security concepts, and Brazil, Russia, Turkey and many others are well advanced in developing their own AEO programs under the SAFE Framework.

With regard to air freight security, a similar evolution is underway. As individual countries strengthen their security programs, exporters in other countries wishing to send cargo to them are faced with having to comply with often onerous requirements as a prerequisite to utilising the air mode of transport. In addition, under the auspices of the ICAO and the WCO, an international effort to harmonise and standardise requirements is moving forward, again led by the Europeans and the Americans, with active input from Japan, China and others. The outcome of these discussions will almost certainly be a new global standard for accessing the international air cargo network—and any business wishing to use it is likely to have no choice but to adhere to that standard, including any associated regulated agent and known consignor certification requirements.

While Australia is well advanced in relation to air cargo security standards, without an AEO (or equivalent) program in place, Australia cannot enter into mutual recognition discussions with its trading partners in the context of the SAFE Framework. Further, apart from the initiatives being undertaken by OTS and DAg, there is no process in place

for Australia's exporters to demonstrate that they have had their security practices validated by government and certified as meeting AEO-equivalent standards.

Consequently, even if Australian exporters have operations which, in fact, meet or exceed international standards, without a national AEO-type program and a certification under that program, they cannot be seen as links in an Authorised Supply Chain under the SAFE Framework. Taking international trends into account, it therefore seems ever more likely that their trading partners will deem their consignments to be high risk, and subject to the associated controls and targeting.

The way in which the commercial world is viewing the secure supply chain is also evolving. Those companies that have attained accreditation under AEO-type programs, including C-TPAT, are often reluctant to introduce new suppliers or service providers into their supply chain unless they have themselves obtained AEO status under their own national programs. The principal reason for this is their concern that introducing 'unknown entities' (from a regulatory perspective) into their supply chain may either jeopardise their AEO status, or impose additional costs in terms of the need to satisfy authorities that their third party operators meet the standards required under the particular scheme in which they have achieved accreditation.

8. Implications for Australia

Feedback from industry reflects a clear expectation that some form of AEO-type scheme (referred to by ACBPS as a Trusted Trader program) will be introduced, based on statements made by ACBPS in its Blueprint and in subsequent speeches by the ACBPS executive.

The feedback also indicates an assumption that various product- and sector-specific arrangements will continue to be required by DAg; and that air cargo security reforms will be progressed by OTS in consultation with industry.

In this context, the focus of industry's attention is the likely scope, focus and detail of the Trusted Trader program, and the way it will be introduced and administered. There is also a keen interest in the likely relationship between the new program and the programs administered by OTS and DAg, and opportunities for adopting a whole-of-government approach, particularly in relation to assessments of compliance with the respective membership criteria.

Note: For the purposes of this section, a member of the proposed Trusted Trader program is referred to as an AO.

8.1. Scope and Focus of a Trusted Trader program

For the reasons summarised in Section 7, it is apparent that Australian exporters may be disadvantaged at some point in the future unless the Trusted Trader program includes export cargo, and is sufficiently robust to enable the establishment of MRAs with Australia's trading partners. Indeed, the potential disadvantage to exporters of not having access to a national AEO-type scheme is seen to be a clear driver to include exports in any arrangement.

The principal criteria for mutual recognition established under the WCO SAFE Framework criteria in their current version are those related to security, as evidenced, for example, by the New Zealand arrangements with the US. In fact the sole focus of New Zealand's Secure Export Scheme (SES) is the security of exported cargo. Furthermore, the New Zealand Customs assessment of supply chain security does not extend beyond outbound shipments from New Zealand. Consequently, if an Australian scheme did not extend to imports, it would most likely be sufficient to focus solely on security criteria in order to be eligible for mutual recognition.

However, members of the trade and transport industry that are involved in importing have indicated that a Trusted Trader program should also include imports, in which case there would doubtless be a need to include trade compliance as a prerequisite for accreditation. The benefit to importers is questionable if the focus is simply on ACBPS clearance procedures, as these are already considered to be quite efficient, and it was a perceived lack of benefits that caused the ACP to fail. Industry has, however, identified a number of possible incentives to join an import-focused scheme that look beyond the efficiency of clearance procedures. These include:

1. **Reduced levels of intervention**

   An AO should be subject to measurably lower levels of intervention than other members of the trading community. This includes physical cargo inspections, documentary queries and post entry audits.

2. **Simplified procedures**

   AOs should have access to deferred duty payment arrangements, for example, the ability to account for duty payments in their monthly or quarterly Business Activity Statement (BAS).

   The option of using periodic reporting arrangements should also be made available to AOs.

   Simplified procedures should also be introduced for obtaining permits, claiming duty drawback and similar arrangements where such activities form a regular part of an AO's operations.

3. **Priority treatment**

   A single point of reference such as an account manager should be provided to assist AOs in their dealings with ACBPS.

   In the event of a physical inspection or documentary query, AOs should be given 'head of queue' treatment. In other words, the matter should be dealt with ahead of any similar matters relating to non-AOs.

   Where possible, AOs may elect to have physical cargo examinations undertaken at premises nominated by them.

   AOs should receive priority processing of applications for advices and rulings, such as tariff advices, TCOs and valuation rulings.

   Priority processing should be provided to AOs in the event of trade disruption and/or elevated threat levels.

4. **Reduced fees and charges**

   Differential rates should be set for import processing charges and other fees where the regulatory activities on which such fees and charges are based are less frequently applied to members of the Trusted Trader program.

5. **Mutual Recognition**

   Mutual recognition arrangements should be negotiated with Australia's major trading partners to ensure that AOs receive the benefits of facilitated clearance arrangements and any other benefits that may be available under the relevant country's AEO program. In this regard, Australia should seek to secure specific outcomes for its AOs under MRAs, as is the case with New Zealand and the US.

8.2. Membership of a Trusted Trader program

As service providers such as customs brokers, freight forwarders, express carriers and carriers all form part of the supply chain, those who see merit in a Trusted Trader program generally consider that it should be open to service providers as well as traders.

It should be noted that, in the export environment, service providers are already included in the arrangements operated by OTS (in the form of AACAs and RACAs) and by DAg (e.g. export abattoirs and boning rooms), as both agencies are focused on the security of the entire domestic supply chain from exporter to carrier.

In this context, the point has been made that, whatever costs may be involved in achieving AO status, a small or indeed medium-sized trader may not consider it to be worthwhile. However, accrediting service providers may provide an opportunity to include SMEs in the Trusted Trader program. For example, in the export context, a service provider with AO status should, where sufficient safeguards have been shown to be in place, be able to provide an SME with a conduit into a recognised secure supply chain.

As such, an SME whose standard procedure is to export via an accredited entity should in concept be eligible to attain AO status for export activity adhering to such standard procedures. This concept is clearly reflected in the OTS model whereby goods exported by an entity that is not a Regulated Shipper are able to enter a secure supply chain by way of a RACA or AACA.

8.3. Whole of Government Approach

A key issue that has arisen during the course of the research is the degree of commonality between the DAg and OTS export arrangements in terms of the criteria for accreditation under the two schemes, both of which aim to provide assurances about the security of the supply chain. Similarly, the security-related criteria that are expected to be attached to the Trusted Trader program will most likely reflect those applied by DAg and OTS, to some extent.

Consequently, there appears to be scope for inter-agency recognition of an entity's status, at least to some degree. For example, a DAg-registered exporter of meat that is seeking OTS accreditation as a Regulated Shipper could be expected to have already satisfied a number of the OTS requirements by virtue of their DAg registration.

Similarly, ACBPS, when assessing the systems and procedures of an exporter that is seeking AO status, should take into account the exporter's existing accreditation with other agencies. In cases where the exporter holds DAg registration and/or is an OTS Regulated Shipper, the need to (re)assess the security of the exporter's supply chain should be significantly reduced.

Further, if the Trusted Trader criteria were to recognise existing authorisations, accreditations and licences in part or in full, uptake of the AO program is likely to be significantly greater. Likewise, if AO membership were to provide exemption or easier access to OTS and DAg authorisations, the Trusted Trader program would be providing a significant 'value add' for industry.

Such an approach has been pursued by other countries in the context of their AO programs. For example, in Singapore a Secure Trade Partnership (STP) member is

recognised as a Known Consignor under the country's Regulated Air Cargo Agent Regime (RCAR). Further, while cargo agents must apply for Regulated Cargo Agent status irrespective of their STP certification and vice versa, the Singaporean authorities will leverage the cargo agent's existing security certification(s) as far as possible such that the cargo agent will require minimal additional effort to meet the STP or RCAR program requirements. The authorities have future plans to harmonise and streamline both the STP and RCAR processes such that cargo agents applying for, or who are part of, both the STP and RCAR will only need to undergo a single audit and an integrated application process. This will eliminate the need for cargo agents to submit duplicate documents and to undergo multiple audits by different authorities.

8.4. Implementing a Trusted Trader program

It is evident from the findings of the research that one country's solution for implementing the SAFE Framework may be inappropriate for another, due to political, economic, cultural and other variances. Each country therefore needs to identify the model that best suits its particular requirements, provided:

- the program complies with the provisions of the SAFE Framework; and

- the export-related elements of the program are sufficiently robust to enable the negotiation of mutual recognition arrangements.

In this regard, it would be acceptable to establish different criteria for export- and import-related elements of the program. An export program must, however, have security as its principal focus, for the purposes of achieving mutual recognition with trading partners. On the other hand, the type of benefits being sought by industry in the import environment should only be granted on the basis of demonstrating a high level of trade compliance. A logical approach may therefore be to establish:

1. an export scheme having supply chain security as its principal focus; and

2. an import scheme having trade compliance as its principal focus.

Both could be open to traders and service providers, and membership of both should be voluntary. The export scheme would also need to ensure that participants demonstrate appropriate levels of export compliance, including accuracy of declarations and procurement of relevant permits. Similarly, ACBPS would need to ensure that importers adhered to basic security requirements.

The development of two schemes also provides an opportunity to phase in the Trusted Trader program. The more immediate requirement is considered to be the need to mitigate the risk of erosion of Australian exporters' competitive position in the global marketplace. Consequently, it would be logical to introduce an export scheme as early as possible, and an import scheme shortly afterwards. This would also allow for further industry consultation on the detail of the import arrangements, and particularly the scope of benefits that may be provided to those members of the Trusted Trader program involved in imports.

An export scheme having supply chain security as its primary focus should be relatively easy to implement if the concepts discussed above are adopted. The work already undertaken by OTS could be used as a model for developing such a scheme, and New Zealand's SES program should also provide another useful template, and one which should redress any AEO-related market access concerns. Further, due to the advanced

state of development of the OTS air cargo security arrangements, it may be prudent to firstly implement the new arrangements for air cargo, and to subsequently expand the scheme to include sea cargo.

ACBPS may also wish to consider other matters raised by industry during the course of the project as documented in Section 6, particularly those relating to improving public-private sector relationships, and the need to minimise the regulatory burden, including potential costs associated with Trusted Trader membership. In this regard, leveraging the investment that has already been made by industry to achieve accreditation under other regulatory programs should ensure that such costs are kept to a minimum.

Endnotes

[5] *International Convention on the Simplification and Harmonization of Customs Procedures (as amended) 1999*, adopted 26 June 1999, (entered into force 3 February 2006).

[6] Swedish Stairway Program. See Larsson, Mats (2007) *The Stairway*, Presentation of Swedish Customs, available at http://www.asv.be/documents/graphics/presentaties-douane.be/presentatie-m.-larsson.pdf, accessed 6 March 2014.

[7] See, eg, Widdowson, David (2005) 'Customs partnerships: a two-way street', paper presented to the European Customs Conference organised by the European Forum for Foreign Trade, Customs and Excise, Bonn, Germany, 10 June 2005.

[8] Invitations were also disseminated to a wider community/audience in the form of online newsletters and announcements, in one case by a way of a 'Letter to Editor' of *Australian Maritime Digest* published by the Australian Association for Maritime Affairs and in another instance as a news item in the *Air Cargo Security e-Newsletter* published by OTS.

[9] CBFCA National Conference, Canberra, 24 to 26 October 2013.

[10] CTAG meeting with ACBPS, Melbourne, 29 October 2013.

[11] ECA Agribusiness Working Group Meeting, Brisbane, 17 September 2013.

[12] Any errors contained in the report remain the responsibility of the authors.

[13] At the time much reference was made to Tom Clancy's book *The Sum of All Fears* (1991) in which terrorists managed to smuggle a nuclear device onto US soil. Hawks and vendors of security solutions at industry gatherings also started talking about the 'poor-man's guided missile' - a parcel containing an explosive or pathogenic device, delivered by express courier to the designated victim, who signs for receipt and notifies the sender via track-and-trace. Public debate in response to 9/11 was also fuelled by Flynn in Flynn, Stephen (2000) 'Beyond Border Control', *Foreign Affairs*, Vol. 79, No. 6, available at http://www.foreignaffairs.com/articles/56628/stephen-e-flynn/beyond-border-control, accessed 6 March 2014,, highlighting the perceived vulnerabilities within the modern shipping and logistics systems, the limits to physical inspections at the border, and urging for creative thinking on the part of the private sector, states, and international bodies. See Flynn, Stephen (2002) 'America the Vulnerable', *Foreign Affairs*, Vol. 81, No. 1, pp.60-74.

[14] See, eg, US Customs and Border Protection, C-TPAT: Customs-Trade Partnership Against Terrorism, available at http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/, accessed 6 March 014; Laden, Michael (2007) 'The genesis of the US C-TPAT program: lessons learned and earned by the government and trade', *World Customs Journal,* vol. 1, no. 2, pp. 75-80.

[15] See World Customs Organization (2012) *SAFE Framework of Standards to Secure and Facilitate Global Trade*, World Customs Organization, Brussels.

[16] Council Resolution of 5 December 2003 on creating a simple and paperless environment for customs and trade (2003/C 305/01)

[17] Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

[18] European Commission Regulation (EC) No 1875/2006 of 18 December 2006 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

[19] These were phased in during 2011.

[20] AEO arrangements have been available to EU traders since 2008.

[21] See *Amendments to the Annex to the International Convention for the Safety of Life at Sea*, opened for signature 12 December 2002, [2003] ATNIF 11 (entered into force 1 July 2004).

[22] *International Convention for the Safety of Life at Sea 1974*, opened for signature 1 November 1974, 1184 UNTS 2 (entered into force 25 May 1980).

[23] For a current summary, see ICAO Resolutions Adopted by the 38th Assembly (pp. 55-75), ICAO, November 2013.

[24] International Civil Aviation Organization (2011) *Annex 17 to the Convention on International Civil Aviation*, 9th edition, Quebec, March 2011, Section 4.6.2.

[25] Pan Am Flight 103 was destroyed over Lockerbie, Scotland by an improvised explosive device concealed in a radio cassette player. For further information, see: International Civil Aviation Organization, *ICAO Journal,* Vol. 53, No. 10, available at http://www.icao.int/publications/journalsreports/Forms/DispForm.aspx?ID=688, accessed 6 March 2014.

[26] International Civil Aviation Organization, 'Global Aviation Leadership', *ICAO Journal 2007*, Vol. 62, No. 4, p.10.

[27] International Civil Aviation Organization (2002) *ICAO Aviation Security Plan of Action*, Montreal.

[28] See International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels.

[29] International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels, p.8.

[30] International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels. p.10.

[31] International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels, p.9.

[32] For further details see International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels, pp.9-10.

[33] International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels. p.10.

[34] For further details see International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels, pp.10-11.

[35] International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels, p.11

[36] See International Civil Aviation Organization and World Customs Organization (2013) *Moving Air Cargo Globally: Air Cargo and Mail Secure Supply Chain and Facilitation Guidelines*, 1st edition, Montreal and Brussels.

[37] World Customs Organization, *SAFE Framework of Standards and Air Cargo Security Report*, Policy Commission, WCO Doc SP0453E1a, Brussels, November 2013.

[38] Cargo ships of 500 gross tonnage and upwards: ISPS Code, s 3.1.

[39] ISPS Code Part A, s 1.2.

[40] This aim relates to the WCO's Supply Chain Management Guidelines for the transfer and sharing of trade data.

[41] *International Convention on the Simplification and Harmonization of Customs Procedures (as amended) 1999*, adopted 26 June 1999, (entered into force 3 February 2006) (*Revised Kyoto Convention*).

[42] World Customs Organization (2012) *SAFE Framework of Standards to Secure and Facilitate Global Trade*, World Customs Organization, Brussels, p.I/1.

[43] World Customs Organization (2012) *SAFE Framework of Standards to Secure and Facilitate Global Trade*, World Customs Organization, Brussels, p.I/1.

[44] World Customs Organization (2012) *SAFE Framework of Standards to Secure and Facilitate Global Trade*, World Customs Organization, Brussels, p.6.

[45] World Customs Organization (2012) *SAFE Framework of Standards to Secure and Facilitate Global Trade*, World Customs Organization, Brussels, pp.III/14-III/15.

[46] See Polner, Mariya (2012) *Compendium of Authorized Economic Operator Programmes*, WCO Research Paper No.25, World Customs Organization, Brussels; Asia-Pacific Economic Cooperation (2010) *APEC Authorised Economic Operator Compendium*, APEC Doc 2010/SOM3/CTI/013, Asia-Pacific Economic Cooperation, Singapore; Vietnam Chamber of Commerce and Industry (2013) 'Door Opened for AEO Exporters, Importers', available at http://vccinews.com/news_detail.asp?news_id=28792, accessed 28 February 2014; Customs & Tariff Bureau, Ministry of Finance of Japan (2012) *AEO Program (Authorized Economic Operator)*; Rockwell, Mark (2012) 'CBP, Taiwan Agree on Security Standards', GSN Magazine, available at http://www.gsnmagazine.com/node/27923?c=maritime_port_security, accessed 28 February 2014; Council for Economic Planning and Development (2013) 'Taiwan and Singapore Promote AEO Mutual Recognition', available at http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0020014, accessed 12 December 2013; 4-Traders (2013) 'Ministry of Finance of the Republic of China (Taiw : Taiwan Customs Administration and Singapore Customs Promote the Operation of the Mutual Recognition Arrangement (MRA) on AEO', available at http://www.4-traders.com/news/Ministry-of-Finance-of-the-Republic-of-China-Taiw--Taiwan-Customs-Administration-and-Singapore-Cus--17237910/, accessed 28 February 2014; 'East Africa: Grab AEO Business Opportunities, EAC Traders Told' *Tanzania Daily News*, 19 April 2013, available at http://www.dailynews.co.tz/index.php/biz/16560-grab-aeo-business-opportunities-eac-traders-told, accessed 28 February 2013; World Customs Organization (2012) 'Peru Launches Its AEO Programme', available at http://www.wcoomd.org/en/media/newsroom/2012/october/peru-launches-aeo-programme.aspx, accessed 28 February 2014; Inter-American Development Bank, 'Colombia Strengthens Its Customs Processes Through the Authorized Economic Operator Program and Direct Support from the IDB', available at http://www.iadb.org/en/topics/trade/colombia-strengthens-its-customs-processes-through-the-authorized-economic-operator-program-and-direct-support-from-the-idb,7114.html, accessed 28 February 2014; Exim India Online (2012) 'CBEC Chairman Launches AEO Programme, Interactive Customs Tariff Website', available at http://www.eximin.net/NewsDetails.aspx?name=69525, accessed 28 February 2014; Price Waterhouse Coopers (nd) 'Authorized Economic Operator (AEO)', available at http://www.pwc.com/th/en/services/aeo.jhtml, accessed 28 February 2014; Thailand Customs Department (2009) 'What is AEO?', available at http://www.customs.go.th/wps/wcm/connect/custen/Traders+And+Business/Customs+Incentive+Schemes/Authorized+Economic+Operator+(AEO)/Authorized+Economic+Operator+(AEO), accessed 28 February 2014; Ethiopian Revenues and Customs Authority (2012) 'Authorized Economic Operator (AEO), available at http://www.erca.gov.et/index.jsp?id=faq&, accessed 28 February 2014; Chan, Rachel (2013) 'Customs Administration Touts AEO Program', available at http://taiwantoday.tw/ct.asp?xItem=203049&ctNode=421, accessed 28 February 2014; In2EastAfrica (2013) 'Uganda Revenue Authority Certify 10 Authorized Economic Operators AEO in Uganda', available http://in2eastafrica.net/uganda-revenue-authority-certify-10-authorized-economic-operators-aeo-in-uganda/, accessed 28 February 2014; Ministry of Customs and Trade of Turkey (nd) 'Authorized Economic Operator Program of Turkey', available at http://www.gtb.gov.tr/data/51c7e976487c8e0a98f15f8e/authorized%20economic%20operator%20program%20of%20turkey.pdf, accessed 28 February 2014; Taiwan Directorate General of Customs (2010) *The Introduction of Taiwan AEO Program*, presentation slides; Council for Economic Planning and Development (2008) 'Taiwan Promotes Authorized Economic Operator System', available at http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0010856, accessed 12 December 2013; Central Board of Excise & Customs (2012) *Authorized Economic Operator (AEO) Programme for Implementation – Revised Guidelines*, Circular No.28/2012-Customs, available at http://www.cbec.gov.in/customs/cs-circulars/cs-circ12/circ28-2012-cs.htm, accessed 28 February 2014; 'East Africa: Grab AEO Business Opportunities, EAC Traders Told' *Tanzania Daily*

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[47] Within so-called CUSE system (courier services)

[48] Nuevo Esquema de Empresas Certificadas

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[51] Agreements between the EU and Norway and Switzerland imply that the latter two will recognise the mutual agreements agreed by the EU with third countries, such as the USA and Japan.

[52] See previous endnote

[53] Negotiations between Singapore and New Zealand are reported by the WCO in Polner, Mariya (2012) 'Compendium of Authorized Economic Operator Programmes', WCO Research Paper No.25, World Customs Organization, Brussels, but the authors have been unable to confirm this.

[54] Polner, Mariya (2012) *Compendium of Authorized Economic Operator Programmes*, WCO Research Paper No.25, World Customs Organization, Brussels; Vietnam Chamber of Commerce and Industry (2013) 'Door Opened for AEO Exporters, Importers', available at http://vccinews.com/news_detail.asp?news_id=28792, accessed 28 February 2014; Customs & Tariff Bureau, Ministry of Finance of Japan (2012) *AEO Program (Authorized Economic Operator)*; Rockwell, Mark (2012) 'CBP, Taiwan Agree on Security Standards', GSN Magazine, available at http://www.gsnmagazine.com/node/27923?c=maritime_port_security, accessed 28 February 2014; Council for Economic Planning and Development (2013) 'Taiwan and Singapore Promote AEO Mutual Recognition', available at http://www.cepd.gov.tw/encontent/m1.aspx?sNo=0020014, accessed 12 December 2013; 4-Traders (2013) 'Ministry of Finance of the Republic of China (Taiw : Taiwan Customs Administration and Singapore Customs Promote the Operation of the Mutual Recognition Arrangement (MRA) on AEO', available at http://www.4-traders.com/news/Ministry-of-Finance-of-the-Republic-of-China-Taiw--Taiwan-Customs-Administration-and-Singapore-Cus--17237910/, accessed 28 February 2014; 'East Africa: Grab AEO Business Opportunities, EAC Traders Told' *Tanzania Daily News*, 19 April 2013, available at http://www.dailynews.co.tz/index.php/biz/16560-grab-aeo-business-opportunities-eac-traders-told, accessed 28 February 2013; World Customs Organization (2012) 'Peru Launches Its AEO Programme', available at http://www.wcoomd.org/en/media/newsroom/2012/october/peru-launches-aeo-programme.aspx, accessed 28 February 2014; Inter-American Development Bank, 'Colombia Strengthens Its Customs Processes Through the Authorized Economic Operator Program and Direct Support from the IDB', available at http://www.iadb.org/en/topics/trade/colombia-strengthens-its-customs-processes-through-the-authorized-economic-operator-program-and-direct-support-from-the-idb,7114.html, accessed

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[55] The East African Community (EAC) is the regional intergovernmental organisation of the Republics of Burundi, Kenya, Rwanda, the United Republic of Tanzania, and the Republic of Uganda.

[56] See US Customs and Border Protection, *US and Mexico Sign Joint Work Plan for Mutual Recognition of Trusted Trader Program*, available at http://www.cbp.gov/xp/cgov/newsroom/news_releases/national/01182013_3.xml, accessed 6 March 2014.

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Annex 1: Mandatory advance reporting

Following 9/11 one of the principal methods of addressing the newly perceived security risk of terrorist intervention in the international supply chain was the introduction of mandatory advance reporting of cargo. Commencing in the US, the initiative spread rapidly to other major trading countries. This requirement involves the reporting of cargo prior to loading (e.g. 24 hours prior to loading, as is the case for most maritime shipments to the US), usually by the carrier, to the customs authority in the importing country for advance risk analysis. Different time limits apply to other transport modes, including air in some countries. Regimes now in force include:

- The so-called Advance Manifest requirements have been operational in the US since 2003 for maritime container cargo, and the advance reporting of manifest data has since been phased in for all other transport modes. Also, the Importer Security Filing (ISF) rule under the SAFE Ports Act (commonly referred to as the "10+2 Rule"), has been in operation since 2009, requiring importers to make advance declarations to customs;

- In Japan, 24-hour Advance Cargo Information (ACI) requirements are being phased in and will be mandatory in 2014;

- The 24-hour Advance Manifest Rules have been in operation in China since 2009; and

- The EU began to phase in a pre-departure declaration in 2011, the so-called 'Entry Summary Declaration' or ENS. While this is a mandatory requirement, data quality issues and variations in IT systems and risk management methods among the EU Member States have led to continuing challenges in its usefulness for targeting and enforcement.

It is likely that other countries will follow, especially since the requirement for advance electronic cargo data reporting is enshrined within the WCO SAFE Framework of Standards (discussed below). This would be over and above pre-existing advance reporting requirements set by non-customs agencies, such as in the US where the Food and Drug Administration (FDA) sets additional advance reporting requirements for food exports to the US by reference to the Bioterrorism Act (2002). This Act, recently expanded by the provisions of the Food Safety Modernization Act, also requires food exporters and their transport operators to register with the US authorities.

In many countries advance reporting to sanitary and phytosanitary authorities also applies. These requirements often predate 9/11 and are generally concerned with ensuring that adequate inspection staff are available to clear the goods. Over the past decade, however, many new electronic advance data reporting requirements have been implemented, with the intent of allowing authorities in the destination country to risk assess and target shipments at the earliest possible stage.

The United States has been heavily promoting its Air Cargo Advance Screening initiative (based on the provision of mandatory pre-departure electronic data for destination country analysis prior to aircraft departure), and is planning to make its on-going pilot program mandatory for US-bound shipments in the relatively near future (see USCBP November 2013 report to COAC Committee).

Annex 2: Original AEO criteria in SAFE Framework 2005

Authorized Economic Operators will incorporate pre-determined security best practices into their existing business practices.

The Authorized Economic Operator (AEO) will implement security measures that assure the security of buildings as well as those that monitor and control exterior and interior perimeters and access controls that prohibit unauthorized access to facilities, conveyances, loading docks and cargo areas.

Access control of facilities in the secure supply chain should incorporate managerial control over the issuance and adequate control of identification badges (employee, visitor, vendor, etc.) and other access devices, including keys, access cards, and other devices that allow for unfettered access to company property and assets.

Access control to facilities in the secure supply chain should incorporate prompt and thorough removal of a terminated employee's company-issued identification and access to premises and information systems.

Trade-sensitive data should be protected through use of necessary automated back-up capabilities, such as individually assigned password accounts that require periodic recertification, appropriate information system security training, and protection against unauthorized access to and misuse of information.

Personnel security programmes should incorporate screening of employees and prospective employees, as appropriate and as allowed for by national legislation. These programmes should include periodic background checks on employees working in security-sensitive positions, noting unusual changes in an employee's apparent social and economic situation.

In accordance with the AEO's business model, security programmes and measures should be in place to promote the integrity of a business partner's processes that are related to the transportation, handling and storage of cargo in the secure supply chain.

Procedures should be employed to ensure that all information used for cargo processing, both electronic and manual, is legible, timely, accurate, and protected against alteration, loss or introduction of erroneous data. The AEO and Customs will ensure the confidentiality of commercial and security-sensitive information. Information provided should be used solely for the purposes for which it was provided.

An AEO shipping or receiving cargo should reconcile it with the appropriate shipping documentation. The AEO shall ensure that cargo information received from business partners is reported accurately and in a timely manner. Persons delivering or receiving cargo must be identified before cargo is received or released.

The AEO should conduct specific training to assist employees in maintaining cargo integrity, recognizing potential internal threats to security and protecting access controls. The AEO should make employees aware of the procedures the company has in place to identify and report suspicious incidents.

Annex 3: AEO Programs of Selected Countries

3A: United States

Program: Customs-Trade Partnership Against Terrorism (C-TPAT)

Eligible Businesses

- U.S. importers
- U.S./Canada & U.S./Mexico highway carriers
- Rail and sea carriers
- Licensed U.S. Customs brokers
- U.S. marine port authority/terminal operators
- U.S. freight consolidators/ocean transport intermediaries/non-operating common carriers
- Mexican and Canadian manufacturers
- Mexican long-haul carriers

Focus

- Focused on shipments bound for U.S. - since 2013 U.S. Importers with Tier 2 or Tier 3 status may also participate in an optional extension covering exports from the U.S.

Types of Certification

The C-TPAT program has three levels, or "Tiers", ranging from the basic level Tier 1 to the highest level, Tier 3:
- Tier I consists of those companies that have submitted their security plans, committed to meeting C-TPAT minimal security criteria, had those plans approved by CBP supply chain security specialists and, based upon vetting, have had no history of significant non-compliance or law enforcement problems.
- Tier II consists of C-TPAT companies which have gone through CBP validation/re-validation.
- Tier III consists of fully certified, validated C-TPAT partners which exceed the minimum standards, and which have adopted C-TPAT best practices.

Number of Participants

- As at February 2014, there are 10,702 C-TPAT partner companies in good standing, of which 336 are at the Tier III level.

Key Benefits for Business

- C-TPAT members have eligibility to apply for Free and Secure Trade (FAST) lane access, enabling them to use designated lanes major land border crossings from Canada and Mexico and providing them with an expedited clearance and examination process.
- C-TPAT member imports are, on average, 4 to 6 times less likely to incur a security or compliance examination than when compared with non-C-TPAT member imports.
- Stratified exam and front-of-the-line privileges for C-TPAT member consignments targeted for inspection reduce associated delays and costs.
- C-TPAT members are to receive priority upon border processing resumption in the event of a stoppage due to a natural or man-made disaster.
- Access to individually assigned USCBP Supply Chain Security Specialist (SCSS) to discuss security issues
- Access to web-based C-TPAT Portal system and 'Public Library' of training materials and information.

Linkages with other Accredited Operator Schemes

- None currently in place, but efforts underway to link C-TPAT status to upcoming air cargo security refinements and AOS programs of Food & Drug Administration (FDA) and potentially other US government agencies.

Mutual Recognition	
In place:	**Under negotiation:**
▪ New Zealand	▪ Singapore
▪ Canada	▪ Switzerland
▪ Jordan	▪ Israel
▪ Japan	▪ Mexico
▪ South Korea	▪ China
▪ European Union	
▪ Taiwan	

Authorisation conditions and process

C-TPAT applicants must complete an online electronic application including:
- corporate information
- supply chain security profile
- a comprehensive self-assessment of supply chain security procedures using the C-TPAT security criteria, which include:
    - Business Partner Requirements
    - Procedural Security
    - Physical Security
    - Personnel Security
    - Education and Training
    - Access Controls
    - Manifest Procedures
    - Information Security
    - Conveyance Security

Once the on-line application is accepted, the C-TPAT participant will have an on-site validation by USCBP, which also verifies that the company has a compliant track record with CBP.

After certification, C-TPAT members will be assigned to a Tier, which may be modified in subsequent CBP re-validations, which occur on average every three years. USCBP require C-TPAT partners to obtain agreement from their in-bound overseas supply chain (vendors, service providers) that CBP has the right to conduct on-site validations at their facilities overseas. This requirement is eliminated for overseas supply chain partners having membership in AEO programs in countries with which the U.S. has a mutual recognition agreement in place.

C-TPAT members have an on-going obligation to do the following, on an annual basis:

- Conduct an International Supply Chain Security Risk Assessment in accordance with prescribed CBP criteria, document the results, and be prepared to demonstrate measures taken to identify and reduce security risks.

- Complete an Annual Security Profile Review and update any changes in the on-line CBP C-TPAT portal.

C-TPAT members can be suspended or removed from the program due to security incidents or negative findings uncovered during CBP validations. An appeals process exists, and a company is usually suspended first, and required to implement corrective action. If this is deemed inadequate, removal may ensue. Over the course of the program to date, there have been 1,781 suspensions and 1,298 removals.

3B: European Union

Program: Authorized Economic Operator

Eligible Businesses

- The AEO programme is open to all economic operators (including natural persons and legal persons such as a company) who in the course of their business activities are involved in customs-related activities. Typically, economic operators are: importers, exporters, manufacturers, freight forwarders, warehouse keepers, customs agents, carriers, ports; secure freight parking operators and airport handling agents, among others.

Focus

- Imports and Exports

Types of Certification

- Customs Simplifications (AEOC) – Provides for easier access to simplified customs procedures at the ports and borders, enabling inland (local) clearance, and simplified export procedures
- Security and Safety (AEOS) – Provides for operational benefits in the control and inspection of EU imports and exports with regard to safety and security. AEOS also provides the basis for mutual recognition with AEO type programmes in certain non-EU countries
- Customs Simplifications/Security and Safety (AEOF) – a combination of the two above.

Number of Participants

- EU operators have been able to apply for AEO status since 1 January 2008 (though a small scale pilot programme was launched in 2006)
- As of October 2013 the total number of AEO applications received since the program was launched is 15,810. The total number of awarded AEO certificates is 13,587. Of these 6,705 are AEOF, 436 are AEOS and 6,446 are AEOC.
- Details of companies' specific AEO status (those that have consented to this) can be publicly accessed via the European Commission's AEO database (EU 2013)
- In 2012 AEOs were involved in 61% of import and 38% of export declarations

Key Benefits for Business

The holder of the AEOC is entitled to:
- Easier admittance to customs simplifications as the criteria which have already been examined when granting the AEOC will not be re-examined again
- Fewer physical and documentary customs controls than other economic operators, with the exception of those controls related to security and safety measures
- Priority treatment if selected for control
- Option to request a specific place for such control.

The holder of the AEOS is entitled to:
- Possibility of prior notification when selected for control
- Reduced data set for entry and exit summary declarations
- Fewer physical and documentary controls in respect of security and safety
- Priority treatment if selected for control
- Option to request a specific place for such control.
-
The holder of an AEOF is entitled to both AEOC and AEOF benefits, plus:
- Access to a designated contact point (or person) at the customs administration
- Use of the AEO-logo in marketing and company literature

Linkages with other Accredited Operator Schemes

- Aviation Security: the AEO status should be taken into account by the competent authorities in the respective member states when applying for 'Know Consignor', 'Regulated Agent', or 'Account Consignor' status. Deeper integration between the AEO and the respective aviation security schemes is currently under consideration.
- Fishing: AEOs dealing with fishery products and catch certificates (required in the EU) may apply for the additional status of an Approved Economic Operator (APEO), which confers simplified customs procedures for the import of fishery products into the EU.

Mutual Recognition

In place:	**Under negotiation:**
▪ Switzerland	▪ China
▪ Norway	
▪ USA	**Anticipated within next two years:**
▪ Japan	▪ Republic of Korea
	▪ Canada
	▪ New Zealand

Authorisation conditions

Operators and applicants must be 'in control' of their business and applicants need to show that they can influence their supply chain operations, implement appropriate organisational measures, have in place appropriate organisational controls, and be in a position to evaluate, adjust and refine their management systems.

The criteria for granting of an AEOC include:
- a record of compliance with customs requirements
- satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls
- proven financial solvency.

- The criteria for granting of AEOS include:
- a record of compliance with customs requirements
- a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls. However, unlike an AEOC, an AEOS is not required to have a logistical system which distinguishes between Community and non-Community goods within their records
- proven financial solvency
- appropriate security and safety standards.

- The criteria for granting AEOF:
- must meet the conditions for both AEOC and AEOS
- Note: the specific criteria for AEOC and AEOS are extensive. However, to help pave the way for mutual recognition, AEOS is very much aligned with the WCO's SAFE framework.

Authorisation Process

The principal steps that the operator needs to undertake are:
- Decide on type of authorisation (AEOC, AEOS or AEOF)
- Nominate a contact person
- Identify the correct EU member State in which to make the application
- Contact and seek guidance from the relevant customs administration
- Provide information about business activities (units/departments) in all member states and inform them about the application
- Carry out an AEO self-assessment (recommended)
- Provide supporting documentation as advised by the customs administration in the relevant member state

- Lodge the formal application

Customs administrations are obliged by law to reach a decision within 120 days. In duly justified circumstances this period may be extended for a further 60 calendar days. Applicants, too, may ask for an extension.

Additional Notes

The AEO was first introduced in the EU as part of the so called Security Amendment to the Customs Code (648/2005/EC) and its Implementing Provisions (1875/2006/EC). Together with the Modernised Customs Code (450/2008/EC) – recently recast and now referred to as the Union Customs Code [UCC] (952/2013/EU) – it forms a central feature within the European Union's wider ambitions for a "paperless trade and customs environment". The UCC and its Implementation Provisions are expected to be implemented no later than 2020, with much of the underlying electronic infrastructure in place by 1 May 2016[247].

In many EU member states the benefits attributed to AEOC, especially inland clearance, already exist within current custom legislation. The AEO merely provides a more harmonised approach to securing authorisation for the respective customs simplifications – especially since criteria that have been examined in the AEO application do not need to be re-examined when applying for the respective simplifications.

Once the UCC is fully implemented additional AEOC/F benefits are expected to be: guarantee waivers for special customs procedures[248], single authorisation (enabling operators to draw on simplified customs procedures in more than one EU member state), self-assessment[249], and centralised (EU-wide) clearance. The latter is a radically new benefit, enabling economic operators to consolidate their customs compliance operations across Europe at one location[250].

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[247] The vision for a paperless trade and customs environment was first set out by the European Commission in 2003 (COM(2003)452 final) and subsequently adopted by the European Parliament and Council in 2008 (70/2008/EC). The original time-table for completion of this extensive reform programme, which includes radical changes to customs systems in each of the 28 European member states, was set for June 2013. That date has now slipped. New commitments by the Commission with regards to certain aspects of the Lisbon Treaty (2007/C306/01) made it necessary for the Modernised Customs Code to be recast. .It is now referred to as the Union Customs Code (COM(2012)64; and in October 2013 was ratified by the European Parliament and Council (952/2013/EU). The associated Implementing Provisions for the Union Customs Code still need to be drafted, but early consultation drafts are likely to be made public sometime in 2014.

[248] Though some member states, such as the UK, currently do not require guarantees for these special procedures. With the changes brought about through the UCC businesses who wish to continue not having to provide guarantees will need to become AEO accredited or show that they meet AEO criteria.

[249] Though versions of self-assessment are already available in current customs legislation and are routinely applied amongst larger operators.

[250] Benefits of Centralised Clearance would be even greater, if the facility could be extended from customs duties to VAT compliance, too. A number of EU business interest associations are lobbying for this.

3C: Singapore

Program: Secure Trade Partnership (STP)

Eligible Businesses

- The program is open to companies in Singapore that are involved in supply chain activities (e.g. importers, exporters, warehouse operators, transporters, and terminal operators)

Focus

- Imports and Exports
- Focus is on accrediting companies' security provisions

Types of Certification

- The program has two levels of certification: STP and STP-Plus. The latter is awarded to companies who exceed the minimum requirements for STP certification.

Number of Participants

- The STP programme has been in place since 2007.
- As at October 2013 there are 44 STP and 65 STP-Plus certified companies
- All STP and STP-Plus companies who have given their consent to publish their names are listed on the Singapore Customs Website

Key Benefits for Business

- Cargo imports and exports are less likely to be inspected
- Reduced levels of inspection and/or expedited clearance in countries where Singapore has a Mutual Recognition Arrangement (MRA) in place
- Accesses to designated account managers
- Other trade facilitative benefits such as bank-guarantee reduction
- Automatic recognition as a Known Consignor when making airfreight shipments (see below)
- Additional benefits include marketing and branding as STP

Linkages with other Accredited Operator Schemes

- An STP is recognised as a Known Consignor under the Regulated Air Cargo Agent Regime (RCAR) which is administered by Singapore Police Force. This means that cargo belonging to the company will be less likely to be inspected prior to loading into an aircraft, provided the company also uses a Regulated Cargo Agent to handle its cargo
- Since the STP and RCAR are conceptually two different programs, cargo agents must still apply for Regulated Cargo Agent status irrespective of their STP certification and vice versa. However, the authorities will leverage the cargo agent's existing security certification(s) as far as possible such that the cargo agent will require minimal additional effort to meet the STP or RCAR program requirements. Both authorities have future plans to harmonise and streamline both the STP and RCAR processes such that cargo agents applying for, or who are part of, both the STP and RCAR will only need to undergo a single audit and an integrated application process. This would eliminate the need for cargo agents to submit duplicate documents and to undergo multiple audits by different authorities.

Mutual Recognition

In place:	Under negotiation:
▪ Canada	▪ Hong Kong
▪ China	▪ United States
▪ Japan	
▪ South Korea	Anticipated within next two years:
▪ Taiwan (in pilot stage)	▪ EU

Authorisation conditions

Operators and applicants must be 'in control' of their business and applicants need to show that they can influence their supply chain operations, implement appropriate organisational measures, have in place appropriate organisational controls, and be in a position to evaluate, adjust and refine their management systems. Companies are required to:

- have a security management system
- conduct risk assessments of their business operations; and implement the stipulated security measures under the STP Guidelines and Criteria to secure their supply chains, including:
    - premises security and access controls
    - personnel security
    - business partner security
    - cargo security
    - conveyance security
    - information and Information Technology (IT) security
    - incident management and investigations
    - crisis management and incident recovery.

The STP is consistent with the WCO's SAFE Framework of Standards. Companies that exceed the minimum STP requirements may be granted STP-Plus certification.

Authorisation Process

- Application Form for the STP
- A so-called "Introduction of the company", which describes details about the company's history, principal operations and relationships with supply chain partners, goods and products traded, organisation charts and number of employees as well as any details about other security accreditations
- Completed "TradeFIRST" self-assessment checklist
- Submit supporting documents which include:
    - Security measures put in place by the company to enhance the security of the company's supply chain.
    - Process map(s) that illustrates the flow of goods and documentation/ information through the company's supply chain
    - Site plan(s) that shows the layout of the company's premises and clearly identifies all perimeters, access areas, buildings, structures, security and access controls.
- Copy of the company's relevant security accreditations
- Any other relevant supporting documents as mentioned in the TradeFIRST self-assessment checklist.
- A Customs validation visit at the company's and its key business partners' sites in Singapore

The duration of the application process will depend on the completeness of the information and documents provided. Typically, where applications have found to be in good order, certification can be completed within 90 days. There are no application charges. Certificates are valid for up to three years, subject to periodic customs visits and review.

Additional Notes

The Singapore Government has established a number of Inter-Ministry Committees (IMCs) with focus on various aspects of security. The Inter-Ministry Supply Chain Security Committee (IMSCSC) is one of the IMCs and provides a vehicle for Singapore Customs to work closely with other government agencies in the administration of the STP. The other government agencies include the Ministry of Transport, Ministry of Home Affairs, Immigration and Checkpoints Authority and Maritime Port Authority of Singapore

3D: New Zealand

Program: Secure Export Scheme (SES)
Eligible Businesses
▪ Open to all exporters (companies and individuals)
Focus
▪ Covers all exports ▪ Focus is on accrediting an entity's security arrangements
Types of Certification
▪ The SES accredits suitably qualified companies as 'SES-Partners' ▪ The 'SES-Partner' is the only available accreditation under the scheme
Number of Participants
▪ Not known
Key Benefits for Business
Direct benefits: ▪ Reduced fees for the lodgement of export entries ▪ Enhanced border clearance privileges with Mutual Recognition Arrangement (MRA) partner countries ▪ Reduced likelihood of customs intervention when exporting from NZ ▪ Access to advice and assistance from New Zealand Customs in the event of disruption by Customs in NZ and in countries where NZ has Mutual Recognition Agreements in place Additional Benefits: ▪ A recognised secure supply chain from the point of packing to delivery at the port ▪ Potential marketing benefits ▪ The ability to demonstrate compliance with international security measures where these may be required under contractual obligations with business partners
Linkages with other Accredited Operator Schemes
▪ None
Mutual Recognition

In place:	Under negotiation:
▪ USA ▪ Japan ▪ Republic of Korea	▪ None

Authorisation conditions
SES-partnership is conditional upon demonstrating that goods for export are packaged securely, with no other goods, and conveyed to the place of shipment securely and without interference, before shipping
Authorisation Process

Exporters are required to complete an application form, submitted by e-mail to customs, which includes:
▪ Security plan detailing:
    – procedural security
    – document security
    – physical security
    – access controls

- – personnel security
- – education and training
- – any other government agency requirements (where applicable)
- Process map illustrating the flow of goods and documentation/information from receipt of order to the point of export
- Site plan
- Security plan specific to Transport Operations prepared in conjunction with the applicant's transport operator

Upon Receipt of the application Customs will provide an indication of the timeframe for processing. Customs will then check the application, followed by a verification visit at the applicant's nominated premises.

Upon Customs' approval, SES partners are required to sign a document that details the Customs-approved secure packaging and the seal and/or marking to be applied to that packaging, supported by the applicant's finalised security plan.

SES-partners are responsible for monitoring and maintaining the agreed level of security and data integrity for their operations.

3E: People's Republic of China

Program: Authorized Economic Operator

Eligible Businesses

- Customs brokers, consignors, consignees and processing trade enterprises
- Logistics and transport companies are outside of the programmes scope

Focus

- Imports and Exports

Types of Certification

The AEO program in China is based on China Customs' broader system for classifying business enterprises (the "Measures of the Customs of the People's Republic of China on Classified Management of Enterprises"). This classification system provides for five types of customs status, the highest of which constitutes AEO status. The specific Classes are:

- Class AA: confers significant compliance and security type benefits and constitutes China's AEO status
- Class A: applies to companies with a good performance record and confers some trade facilitation type benefits. Enterprises who wish to become AA need to be at the Class A level for at least one full year. This Class is referred to as the "preliminary AEO"
- Class B: is the "normal" class and Customs' default status for enterprises
- Class C: is the "lower class" and applies to companies who have violated customs conditions, such as in the form of smuggling or defaulting on the payment of taxes
- Class D: the "lowest class" and will be applied to enterprises that have been repeatedly in violation customs requirements.

Number of Participants

- The latest available figures relate to 2012, when it was reported that there were 2174 AA-companies and 25582 A-companies (WCO 2012)

Key Benefits for Business

Class AA:
- Quick release of goods at the port before import taxes and fees are determined. This benefit is conditional upon: a written agreement between the enterprise and Customs; a declaration in electronic format; and a bank guarantee. High risk goods may still be subject to physical inspection irrespective of any quick-release arrangements.
- Access to a dedicated contact Customs official to help the company coordinate and resolve customs issues
- A reduced rate of physical inspection
- All the benefits of Class A

Class A:
- Customs declarations may be lodged from the company's registered place
- Fast-track treatment when carrying out checks and physical examinations
- Inland clearance and inspections at the business' site
- Access to out-of hours and bank-holiday services
- Exemption from guarantee requirements for special and simplified customs procedures
- Priority treatment when applying for special and simplified customs procedures

Linkages with other Accredited Operator Schemes

- None

Mutual Recognition	
In place: ▪ Singapore	**Under negotiation:** ▪ EU (pilot project in place since 2009) ▪ USA ▪ Japan ▪ Korea

Authorisation conditions

Class AA (AEO):
▪ Compliant with the conditions for Class A and having been accredited at the Class A level for one year or more
▪ Compliant with the error rate of 3% or less in import and export declarations during the previous year
▪ Verified by Customs as meeting the requirements for customs administration, enterprise operation & management, and trading safety
▪ Annual submission of an "Assessment Report on Enterprise Operation & Management" and the audit report for the previous year issued by an accounting firm; and a Statement on Import & Export Businesses submitted half-yearly.

Class A ('Preliminary AEO'):
▪ Having been accredited at the Class B level for one year or more
▪ Neither committed the crime of smuggling/act of smuggling nor violated Customs supervision provisions during a period of one consecutive year
▪ Never been subject to any Customs administrative punishments for the infringement of intellectual property rights
▪ No defaults on taxes or fines payable to Customs within a consecutive year
▪ Import and export goods of at least USD 500,000 or more in the previous year
▪ No more that 5% errors in import and export declarations during previous year
▪ A sound accounting system with truthful and complete business records
▪ A good record of complying with customs formalities in a timely and truthful manner
▪ Annual submission of an Assessment Report on Enterprise Operation & Management
▪ Keeping registration certificates with Customs up-to-date
▪ Having no unfavourable records with administrative departments or agencies of banking, industry & commerce, taxation, quality inspection, foreign exchange, supervision, etc.

Note: Authorisation conditions for Customs brokers differ slightly from those of the Consignees and Consignors. The key difference is the economic test, mandating at least 20,000 declarations per year as opposed to a combined value of USD 500,000 or more.

Authorisation Process

▪ Application by the enterprise
▪ Verification audit by customs; assessment is based on 35 criteria; verification is based on 35 indicators from 4 categories (internal control, finance, compliance-record and security)
▪ The outcome of the customs audit will be notified within 60 days; in the event of any short-comings, the applicant has up to 30 days to implement any conditional recommendations
▪ Subsequent to the audit the applicant is subject to continued monitoring by Customs, which includes the enterprise's ongoing operations and post-authorisation audits.

Additional Notes

▪ The AEO program has been introduced as part of China's wider risk management framework. AEOs represent the lowest level of risk (Class AA) and will benefit from China's mutual AEO recognition agreements.
▪ The main purpose of the classification system is to help distinguish between trusted and less trusted enterprises. Trusted traders are to be awarded with trade facilitation measures and with the formal recognition of their security systems

Annex 4: RACA Security Program Requirements

Aviation Transport Security Regulations 2005, Regulations 2.51-2.61 – What RACA's TSP must contain

The RACA's TPS must contain the following information.

a) Cargo security measures.

In particular, the TSP must set out:

- the measures, equipment and procedures used to deter and detect the unauthorised carriage, as cargo, of explosives that could facilitate an act of unlawful interference with aviation, including procedures that will have effect during equipment failure or unserviceability;

- the methods, techniques and equipment to be used for the examination of cargo;

- measures and procedures to ensure the security of cargo at all times;

- measures and procedures for the handling and treatment of suspect cargo;

- measures to prevent the unauthorised disclosure of information regarding security measures to be applied to cargo;

- measures to prevent aircraft operator and flight information from being revealed, before cargo is received by the RACA, to those without a need to know; and

- details of persons who may be given such information and how it is to be given to such a person.[251]

b) Procedures for managing security.

The TSP must set out:

- procedures for managing security at each of its facilities, including organisational structures and security management arrangements, the roles and responsibilities of security contact officers, security staff, contractors and responding agencies, the roles and responsibilities of other staff who have been assigned security duties and responsibilities, and the roles and responsibilities of other Commonwealth, State and Territory agencies, and local authorities, with security duties at the facility; and

- a mechanism for consultation within the RACA's organisation and within each site covered by the TSP, between the RACA and the operator of any security controlled airport at which the RACA has a facility, between the RACA and its employees or their representatives regarding security measures and procedures, and between the RACA and relevant third parties, measures to ensure that the TSP and other security information is protected against unauthorised access, amendment and disclosure.[252]

c) Procedures for quality control.

The TSP must set out:

- quality control procedures, including a schedule of audits;

- the procedures for carrying out an audit, including a process for selecting auditors;

- the procedures for reviewing the TSP, including a process for consultation during such a review; and

- a description of the circumstances that will require a review of the TSP, including those surrounding the occurrence of an aviation security incident; and

The TSP must require:

- the records of an audit to be kept for 7 years; and

- the records of a review to be kept for 3 years.[253]

d) Details of RACA's name and operations.

The TSP must set out, in an accompanying document:

- the RACA's name, the name of its chief executive officer or manager, the RACA's mailing address, the RACA's fax number, the contact telephone number for the RACA, including an after-hours number, an alternative contact person and number, and the name of the security contact officer and his or her business phone number, fax number, e-mail address and a 24-hour security contact number;

- all sites that operate on the RACA's behalf and all sites covered by the TSP;

- information for each site or facility namely the name (if any) of the site or facility, its geographic location, advice on whether the RACA is operating as a cargo terminal operator or a consolidator at the site or facility, details of operations that may require security considerations, a map showing the boundaries of the facility on the airport (if the facility is located at a security controlled airport), a description of any airside and landside operations for which the RACA is responsible, the hours of its normal operation, and details of procedures for security outside its normal hours of operation.[254]

For each of the RACA's facilities that is located at a security controlled airport, the RACA must give the airport operator:

- the RACA's contact details, including contact details for the security contact officer; and

- details of the procedures to check the identity of persons who are authorised to have access to the facilities.[255]

e) Physical security and access control.

The TSP must set out, for each of the RACA's sites as appropriate to the operations at those sites, the security measures and procedures to be used within the site, including measures and procedures:

- to control access to sites and maintain the integrity of access control systems;

- to deter and detect unauthorised access into the airside area by people, aircraft, vehicles or things;

- to deter and detect unauthorised access into the airside security zone by people, aircraft, vehicles or things;

- to deter and detect unauthorised access into a landside security zone by people, vehicles or things;

- to deter and detect unauthorised access into sites (including cargo handling areas covered by the TSP) by people, vehicles or things;

- to ensure the security of passwords, keys and key lists, electronic access cards and other security privileges;

- to ensure all security equipment is appropriately maintained and calibrated, including measures for managing and recording details of equipment maintenance programs;

- to ensure that any vehicles used in the transport of cargo are secured adequately; and

- for the examination of cargo.[256]

The TSP must specify the security measures and procedures that have been implemented, and must include a timetable for the implementation of measures and procedures that have not been implemented.[257]

f) <u>Measures for heightened security alert.</u>

The TSP must set out, in an accompanying document, additional security measures and procedures available in the event of a heightened security alert.

The TSP must include:

- procedures for responding to and investigating aviation security incidents, including threats and breaches of security;

- procedures for reporting aviation security incidents or security breaches, including occurrences that threaten aviation security;

- procedures for evacuation and emergency management in case of an aviation security incident, security threat or breach of security, including a bomb threat and a failure of critical security equipment;

- procedures for responding to any special security directions given by the authorities;

- procedures for raising the awareness and alertness of staff to security threats and their responsibility to report aviation security incidents and breaches; and

- details of any other security contingency procedures and plans.[258]

g) <u>Personnel with particular security roles.</u>

The TSP must set out:

- the criteria for selecting the security contact officer;

- any training that must be given to a person as the security contact officer;

- employees, contractors or other persons (other than the security contact officer) who have been assigned particular security duties and responsibilities;

- details of the duties and responsibilities of each person with particular security roles;

- the knowledge, skills and other requirements for the security-related aspects of their positions;

- the training or qualifications that satisfy those requirements; and

- details on how security awareness training will be given to operational staff.[259]

h) Limit on persons covered.

The TSP must only cover an aviation industry participant that is an agent or subsidiary of the RACA, or has a contract with the RACA to provide a service for the movement or handling of cargo or the making of arrangements for the movement or handling of cargo.[260]

i) Regular customers.

The TSP must include, in relation to international cargo:

- procedures for maintaining and keeping secure a list of regular customers, including, for each such customer: the customer's name and contact details, why the customer was included on the list, and the date of the customer's inclusion on the list;

- the form of an undertaking required from such a customer that it will take appropriate security measures to prevent the unauthorised carriage of an explosive or an explosive device; and

- the procedures for receiving cargo from such a customer, including procedures to identify people who represent such a customer.[261]

j) Provisions for informing consignors of certain matters.

The TSP must include measures and procedures to ensure that a consignor is made aware that:

- the cargo will be subject to security and clearing procedures; and

- it is illegal to consign as cargo, without authorisation, an explosive or an explosive device.[262]

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[251] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.51.

[252] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.52.
[253] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.53.
[254] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.54.
[255] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.54.
[256] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.55.
[257] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.55.
[258] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.57.
[259] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.58.
[260] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.59.
[261] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.60.
[262] *Aviation Transport Security Regulations 2005* (Cth), reg. 2.61.

Annex 5: ACCA Security Program Requirements

Aviation Transport Security Regulations 2005, Regulation 4.51F – What AACA security program must contain

The AACA security program provided by the Secretary under regulation 4.49 must set out the following requirements under the program, as relevant to the kind of business to which the program applies:

(a)   details of the kind of business to which the program applies;

(b)   the measures and procedures to deter and detect the unauthorised carriage of explosives and to prevent acts of unlawful interference with aviation;

(c)   the methods to prevent unauthorised persons from having access to cargo;

(d)   the measures and procedures for the handling and treatment of suspect cargo;

(e)   the measures to prevent the unauthorised disclosure of information regarding security measures to be applied to cargo;

(f)   the measures to prevent aircraft operator and flight information from being revealed to those without a need to know;

(g)   details of persons who may be given information mentioned in paragraph (f) and how it is to be given to such a person;

(h)   the measures and procedures to control access to the AACA's sites and maintain the integrity of access control systems;

(i)   the measures and procedures to ensure that any vehicles used in the transport of cargo are secured adequately;

(j)   the measures and procedures for the examination of cargo;

(k)   details of the training to be undertaken by AACA employees;

(l)   the circumstances and measures for reporting aviation security incidents to the Secretary, including the information that must be set out in the report and the method of reporting.

Annex 6: Company Profiles

6A: IBM Corporation

IBM has emerged as a key participant in AEO and other supply chain security initiatives in recent years. The company was one of the first to join the Customs-Trade Partnership Against Terrorism (C-TPAT) program in the US and has since leveraged this experience and its membership of the WCO's Private Sector Consultative Group to not only join new programs as they have emerged around the world but to work in collaboration with Customs authorities on the development and implementation of these AEO initiatives. A key aim of IBM's involvement has been to help drive consistency in program requirements and maximize mutual benefits for governments and certified enterprises. As of October 2013 IBM had been certified in AEO programmes in 15 countries- Canada, France, Hong Kong, Hungary, India, Ireland, Italy, Japan, Korea, Mexico, Netherlands, Singapore, Spain, UK and the USA.   Formal applications and reviews of application requirements are also underway in a number of other jurisdictions.

In respect to benefits these have varied between programs but some common advantages of AEO membership are – fast lane treatment of imports, reduced inspections, reduction or elimination of post entry audits, additional resources for after-hours clearances, increase in duty credit limits, reduction in clearance processing fees and priority treatment following a security incident. A number of indirect benefits have also materialised in respect to the program development, application and ongoing validation phases in IBM's AEO engagements. These have included: an improved understanding by customs of modern supply chains and trade compliance commitments of multinational companies, recognition and involvement of industry in the development of individual AEO programs (including assistance with customs to customs mutual recognition efforts), and a competitive advantage element as industry seeks out 'AEO ready' partners and suppliers. In addition a mutual understanding of the dynamic between trade compliance and security imperatives, particularly from a risk management perspective, has been greatly improved through these formal customs to industry engagements.

IBM was one of 5 companies selected to participate in the ACBPS AEO Pilot programme in 2006/07 and welcomes the recent announcement in the Customs Blueprint for Reform 2013-2018 focused on 'trusted trader' initiatives.

In Australia, IBM has been operating for over 81 years and has significantly invested in the local economy. With natural resources, digital transformation, and sustainable cities at the forefront of the national agenda, IBM's global expertise and innovation is helping Australia compete in the world economy.

In 2012, IBM Australia Limited generated revenues of $A4.527 billion.

6B: Shooters Wholesale Warehouse

Shooters Wholesale Warehouse Pty Ltd (SWW) is an importer and retailer of firearms and components. For several years it has been routinely importing 300-500 kg of airfreight from the US on a weekly basis. It has an excellent record of compliance with customs and other agencies both in the US and in Australia, and enjoys a positive and active working relationship with local and federal police.

All US and local licences and permits are obtained prior to arrival of the consignment at Sydney airport. Following arrival each Monday at about 6am, the goods are moved to a bond store at Sydney airport by the carrier, and all documents are lodged with Customs. Each shipment is physically inspected by ACBPS, either on Thursday morning or afternoon, i.e. three days after arrival.

The inspections are usually undertaken by different officers, some of whom have technical expertise in firearms and are well versed in the relevant regulatory requirements and others who are not. It is not unusual for Customs to mistakenly claim that the shipment does not correspond to the items identified on the permit, which causes further delays.

The company is of the view that it faces border processing impediments in Australia particularly relating to the repetitive scrutiny of its imports. Three issues are relevant here. The first is the continual three-day delay from arrival to inspection, secondly the level of competence of some of the officers assigned to the task, and finally the apparent disregard by ACBPS of the importer's high level of compliance over a period of several years.

SWW would like to see these issues addressed in the design of the Australian Trusted Trader program and sees benefits in ensuring that the program covers specific industries such as firearms and firearm components. A scheme that helps build trust with ACBPS is seen to be of significant benefit, and SWW would be happy to work with ACBPS to provide the necessary education and training in firearms and firearm components to achieve smoother clearance procedures.

According to SWW, examples of tangible benefits that could become a feature in an Australian program include: reduced exposure to physical inspections for imports into Australia (random inspections instead of 100% inspection); streamlined processing such as expedited inspection/clearance; priority processing and undertaking inspections on priority basis; provision of a single point of reference such as account manager or dedicated liaison person within ACBPS; a dedicated inspection team of officers with some level of familiarity or prior exposure to firearm importations; reduced customs inspection fees and charges; and removal of duplication of requirements among different government agencies.

The company has been operating in the ACT for 18 years. It currently employs 14 staff and generates annual sales of about $4 million.

6C: Inland Trading

Inland Trading Co (Aust) Pty Ltd, an export award-winning company, is a globally operating wine exporter that specialises in the marketing and trading of quality wines. Exporting to over 50 countries, its main markets are China, Canada, Singapore, Thailand, Malaysia, Japan and the UK. Customers are largely hotels, restaurants, cruise lines and airlines.

On average, each week the company ships about three units of airfreight (each containing 100 cases of wine), three to four TEUs (each containing 1200 cases of wine) and several pallets of sea freight (each containing 64 cases of wine).

Border impediments principally relate to Australian labelling requirements for imported wine and champagne. ACBPS requires these products to be labelled in conformity with Australian labelling requirements regardless of the fact that they will be re-exported. This causes delays and creates additional costs.

The company also pays import duty (except on New Zealand wines) and GST on these temporarily imported wines and champagnes. The GST is reclaimed on re-export, but drawback of duty is generally not claimed largely due to the excessive supporting documentation required by ACBPS – the time and resources required to claim drawback make it commercially unviable for smaller shipments.

Wine is highly regulated and depending on the market in question requires a wide range of documents over and above the normal shipping documents. Some markets, such as China, are very strict and any documentation errors will attract high fines (as much as $1500 per erroneous document). The company takes great pains to ensure compliance with all regulatory requirements. It has built up significant expertise and invested in an in-house document management software solution to support its trade compliance requirements.

In Australia the company is required to deal with the Wine Australia Corporation, ACBPS, DAg, ACCI, and Chambers of Commerce and Business Councils of various States and Territories.

Inland Trading would consider membership of a Trusted Trader program provided the costs are reasonable and benefits are attractive. As the company heavily relies on freight forwarders for its logistics and warehousing requirements, it would expect that any benefits and subsequent cost savings conferred by AEO membership to the freight forwarder will be passed on to them.

Identified benefits include reduced interventions and inspections in destination countries, ability to issue origin documents in-house, priority or facilitated treatment at airports for staff traveling with commercial samples, and measures that would reduce document preparation requirements and costs.

The company was established in 1996 and is based within the wider ACT region. It employs 10 staff and generates annual turnover of about $20 million

6D: Aspen Medical

Aspen Medical Pty Ltd is a global healthcare solutions provider based in Canberra with subsidiaries in the UK, USA, Canada, Southeast Asia, Africa, Pacific and Middle East. Much of the company's activity is project mission orientated. Health care solutions are supplied to emergency and disaster areas, remote locations, places experiencing shortages in medical services, and any locations where medical services are required. Aspen Medical's clients include mining companies, Australian Defence Force, public health organisations and aid or emergency relief organisations.

Aspen Medical's business operations involve both exports from and imports to Australia. Much of the equipment and staff deployed in the company's global operations is procured or contracted when and where required. When a service contract comes to an end Aspen Medical will usually dispose of the equipment and assets used on a project. Occasionally, assets will be stored where they were last used until redeployed to other locations.

The company operates two aircraft, a fleet of 40 ambulances and numerous mobile medical facilities and equipment. The company also has an Australian based medical warehouse where it stores medical emergency items, such as drugs, pharmaceuticals and human blood. Import and export operations take place between Aspen Medical's various suppliers and the respective locations at which Aspen Medical has been contracted to provide services, and between its Australian medical warehouse and overseas contract locations.

While timely border is an operational challenge in many of the countries in which the company operates, this is less of a problem in Australia. In instances where delays at the border occur, Aspen Medical will seek to mobilise the necessary political or institutional support to help overcome the delay. For example, in contracts relating to the Australian Defence Force, Aspen Medical may draw on relevant military personnel to help expedite any hold-ups.

The company is exposed to a range of Australian procedures and requirements relating to the control of drugs, pharmaceuticals and blood supplies, which are tightly regulated and usually subject to stringent export licencing and mandatory security provisions. Similarly, their supply chains are tightly regulated and subject to Government authorisation. Aspen Medical is the only Australian company licenced to export human blood from Australia. The company is also certified by a recognised accreditation body in Australia as compliant with international and Australian standards relating to quality (ISO 9001), environment (ISO 14001), and health and safety (OHSAS 18001).

The ability to get people and assets to where they are required is Aspen Medical's core business proposition, and failure to provide services as and when required would have serious contractual implications, including delay in payment and loss of reputation. Consequently, any measures that help expedite the border processes in Australia and overseas are of direct interest to the company, and in this context the company has an interest in the proposed Trusted Trader program.

This national export award-winning company has been operating since 2003. It employs about 2000 staff and has an annual turnover of over $250 million.

6E: Sanger Australia

Sanger Australia Pty Ltd is a global meat export trading company based in Sydney, providing international buyers with access to top quality Australian beef and helping local meat producers sell their products in overseas markets. The extent of the company's supplier base and combined volume allows it to provide reliable on-time deliveries to customers all year round, which in turn enables its customers to better manage their inventory. It does not produce its own meat, but acts as a middle man between Australian meat producers and overseas consumers, and in each case, it takes full responsibility for their suppliers' entire export marketing, sales, shipping and documentation.

Most of the company's shipments (about 90%) are by sea, and the remainder by air, which is preferred for chilled, high-end meat. On average, the company exports about 100 TEUs per week, each containing about 15 tonnes of meat. Sanger exports to about 40 countries, its main export markets being China (accounting for about 40% of the company's exports), Japan, Korea and the US. Sanger's overseas customers are mainly meat wholesalers and distributors.

Sanger does not operate any meat processing or storage facilities. When an overseas order is received, Sanger orders the required meat from its suppliers. The meat is then exported directly from the supplier's premises via nearest sea port or airport. The company uses Free Alongside Ship (FAS) commercial terms when buying meat from its suppliers, which means that suppliers are responsible for delivering the product to the port of shipment and placing it alongside the vessel; and Carriage Insurance Freight (CIF) commercial terms when selling to overseas customers. For exports, the responsibility for complying with overseas border requirements lies with both the overseas buyer and Sanger. Sanger is also responsible for ensuring the product complies with all specifications and requirements of the country of import including labelling and packaging requirements.

Sanger engages the services of both freight-forwarders and customs brokers, and has not experienced any significant border impediments either in Australia or overseas, largely due to the company's extensive experience and good knowledge of overseas markets, as well as relevant due diligence activities. The company takes great care in ensuring that regulatory requirements in countries of import are fully complied with. However, sometimes issues arise at the border overseas (e.g. relating to labelling), in which case Sanger usually resolves the situation by sending the required documents (e.g. labels) overseas or by re-diverting the shipment to a customer in a neighbouring country.

Sanger deals with ACBPS, DAg, and ACCI, holds AUS-MEAT accreditation and a DAg Meat Export Licence, but does not have a DAg 'approved arrangement'.

While no specific benefits were identified in relation to membership of a Trusted Trader program, anything that makes market access easier and reduces costs would be considered a significant benefit. Sanger's view is that participation in an AEO scheme would ultimately come down to a cost-benefit analysis. It considers 'reasonable' costs to be those required to demonstrating compliance.

The company was established in 1973. It employs 40 staff and has the annual turnover of $480 million.

Annex 7: Survey Template

REVIEW OF 'ACCREDITED OPERATOR SCHEMES' RESEARCH PROJECT
SURVEY

Please note: This survey is designed specifically for those who attended the Industry Focus Groups in August 2013. Your participation is important to help us accurately represent the industry views. Your responses will remain anonymous.

1. What is the code that has been allocated to you?

    - _____ (This code will be used to cross-check survey respondents with the Industry Focus Groups participants; however, your responses will remain anonymous).

2. Has your company or its clients ever experienced any disadvantages because Australia does not offer an AEO program?
    - Yes
    - Please give details:_____
    - No
    - Not sure

3. If Australia were to introduce an AEO-type program, who should be able to become an AEO? (please select all that apply)
    - Importer
    - Exporter
    - Customs broker
    - Freight forwarder
    - Carrier
    - Other (please specify):_____

4. If Australia were to implement an AEO-type program, what should its focus be? (please select all that apply):
    - Imports
    - Exports
    - Security
    - Trade Compliance

5. Does your business or its clients face any border processing impediments in Australia that you would like to see addressed in the design of an Australian AEO program?
    - Yes
    - Please give details:_____
    - No
    - Not sure

6. What benefits would your business or its clients like to see from membership of an Australian AEO program?
    - Please list:_____
    - None
    - Not sure

7. Would potential costs associated with membership of an AEO program, such as the costs of demonstrating compliance, deter your company or its clients from becoming an AEO?
   - Yes, definitely
   - Yes, somewhat
   - No
   - Not sure

8. What type of costs do you feel are reasonable to demonstrate compliance with an AEO-type program?
   - Please specify_____
   - None
   - Not sure

9. Do you feel that Australian authorities are sufficiently competent to fairly assess the security of your organisation or that of your clients?
   - Yes
   - No
   - Please elaborate on your concerns:_____
   - Not sure

10. Do you think it is desirable to establish consistent accreditation criteria across different government supply chain security programs?
    - Yes, definitely
    - Yes, somewhat
    - No
    - Not sure

11. If Australia were to establish mutual recognition arrangements with other countries, are there any specific impediments to trade that you or your clients would like to see addressed in these countries?
    - Yes
    - Please give details (in general or country-specific with examples):_____
    - No
    - Not sure

12. If Australia were to enter into mutual recognition arrangements with other countries, what outcomes/benefits would you or your clients like to see?
    - Please give details (in general or country-specific with examples):_____
    - None
    - Not sure

13. If Australia was to enter into mutual recognition arrangements with other countries, what countries would be a priority for your company or its clients?
    - Please list:_____

14. In your opinion, if your competitors or those of your clients were able to clear goods through customs overseas more expediently, would your company or your clients be likely to lose out on business:

- If ½ day faster?
    - o Yes, somewhat
    - o Yes, significantly
    - o No
    - o Not sure

- If 1-2 days faster?
    - o Yes, somewhat
    - o Yes, significantly
    - o No
    - o Not sure

- If 3 or more days faster?
    - o Yes, somewhat
    - o Yes, significantly
    - o No
    - o Not sure

Annex 8: Industry Background Paper

The Research Project

The research project is a review of the emerging 'Accredited Operator' concept which, internationally and locally, is being espoused by a number of regulatory agencies in the form of 'Regulated Shipper', 'Regulated Agent', 'Accredited Agent', 'Authorised Economic Operator', 'Approved Exporter', 'Registered Operator', etc. which have emerged as a result of international initiatives relating to supply chain security and trade facilitation. The research will review the subject from a number of perspectives, including international initiatives, global responses, Australian Government responses, and implications for regulators and the business community.

The project is being funded through the Australian International Trade and Transport Industry Development Fund (AITTIDF) with the support of the Customs Brokers and Forwarders Council of Australia Inc. (CBFCA), the Export Council of Australia (ECA), the Australian Federation of International Forwarders (AFIF), the Conference of Asia Pacific Express Carriers (CAPEC) and Shipping Australia Limited (SAL).

Background

Following the 9/11 terrorist attacks, government agencies throughout the world have been developing and implementing various initiatives that are designed to secure international supply chains while facilitating legitimate trade. Some such initiatives focus on the concept of Accredited Operators (i.e. trusted members of the international trading community), the two principal schemes being those relating to Customs and to air cargo.

<u>Customs</u>

The World Customs Organization's SAFE Framework of Standards to Secure and Facilitate Global Trade (the SAFE Framework) provides standards and principles for adoption by all WCO members designed to secure the international supply chain in a way that facilitates trade.[263] Key elements are the concepts of Authorised Economic Operator (AEO) and Mutual Recognition.

An AEO is essentially a compliant member of the international trading community that is deemed to represent a low risk to Customs. It is intended that AEOs will be accorded greater levels of facilitation, and where two countries have an MRA in place, the AEO status of a company is to be recognised by the customs administrations of both economies. Importantly, assessment against the AEO criteria is voluntary.

By definition, an AEO includes, among other things, manufacturers, importers, exporters, customs brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses and distributors.264 Consequently, all members of the international trade and transport industry are eligible to seek AEO status.

<u>Air Cargo</u>

The International Civil Aviation Organization (ICAO) has independently been developing international standards and recommended practices for air cargo supply chain security.

This has been in response to the ongoing threat of terrorist attacks, including the more recent air cargo security incidents originating from Yemen in 2010. The ICAO Standards and Recommended Practices, contained in Annex 17 to the Convention on International Civil Aviation (the Chicago Convention), provide an international framework for addressing acts of unlawful interference.[265]

In many countries, Regulated Agent programs, based on the ICAO Chicago Convention Annex 17 Standards and Recommended Practices, have been implemented, supported in many instances by Known Shipper/Known Consignor programs.[266] These programs are designed to prevent unlawful interference with aviation and include measures that require air cargo to be security cleared before it can be loaded on an aircraft.

NOTE: further background information on international initiatives is provided at Appendix 1. (Not included in this report)

What's happening in Australia?

Customs

167 WCO members, including Australia, have agreed to implement the SAFE Framework which includes the concept of AEO, and in 2006 ACBPS stated that it had a responsibility to support legitimate trade by assisting Australian industry to meet the requirements of overseas authorised economic operator and like arrangements. However, in 2009 and again in 2012, ACBPS publicly announced that it would not be introducing an AEO program. Australia's decision not to proceed with an AEO program was purportedly based on the results of two industry surveys.

In June 2013, however, details of a Service-wide reform program were announced, which include a focus on MRAs with trading partners to acknowledge authorised economic operator and trusted trader schemes.[267] While the statement mentions AEO schemes, it does not necessarily imply that ACBPS will implement an AEO program. It does, however, indicate that international dialogue will be entered into in an effort to leverage AEO and similar arrangements by way of mutual recognition.

Air Cargo

Australia is a signatory to the Chicago Convention and also participates in the ICAO Working Group on Air Cargo Security which has been developing new international standards for air cargo supply chain security.[268]

The Department of Infrastructure and Transport already has in place measures that require air cargo to be security cleared before it can be loaded on an aircraft. These measures apply to businesses that security clear, handle or make arrangements for the transport of air cargo, and are administered through the current Regulated Air Cargo Agent (RACA) and Accredited Air Cargo Agent (AACA) schemes.[269]

The Department has recently released a discussion paper that addresses proposed new export air cargo security requirements to strengthen the aviation supply chain against the threat of terrorism and other acts of unlawful interference. Proposed changes include the introduction of a Regulated Shipper Scheme (RSS) and Enhanced Air Cargo Examination (EACE), as well as changes to the rules governing RACAs.[270]

NOTE: further background information on Australian initiatives is provided at Appendix 2. (Not included in this report)

The International Supply Chain in 2013 and Beyond

If one looks at the evolution of the SAFE Framework and the national initiatives which have been implemented under it over the past 8 years, clear trends are emerging. More and more countries are implementing AEO programs, with a broadening scope, and advance data filing requirements and mutual recognition arrangements are beginning to have real impact on traders. From an exporter's perspective, having a consignment deemed low-risk at destination implies a more rapid and predictable customs clearance. At the same time increased air cargo security requirements (e.g. known consignor) and destination countries which require electronic pre-departure data make it more difficult for the export to leave the country of departure without meeting international requirements. In the world contemplated under the SAFE Framework, where a high-risk consignment is one "for which there is inadequate information or reason to deem it as low risk"[271], the exporter is more likely to face delays and costs associated with inspections if its exports are not recognised as low risk by the destination government.

Japan, the EU and the US all have introduced mandatory electronic pre-arrival notification requirements in recent years, and they continue to expand their coverage across different transport modes, and are moving to strict enforcement. At the same time, they have also introduced voluntary programs under the SAFE AEO standards and have seen them widely adopted, among traders and supply-chain service providers alike. Mutual recognition among the three programs is established, and implementation of differentiated risk targeting between the consignments of qualified AEOs and non-AEOs is in its early stages. The concept of the "Authorized Supply Chain" is becoming a reality—so much so that these economies are making it a part of on-going negotiations for new trade agreements, including the Trans-Pacific Partnership. China and India already have AEO programs, the NAFTA countries are actively working on regionally-integrated supply-chain security concepts, and Brazil, Russia, Turkey and many others are well along in developing their own programs under the SAFE Framework.

With regard to air freight security, a similar evolution is underway. As individual countries strengthen their security programs, exporters in other countries wishing to send cargo to them are faced with having to comply with often onerous requirements as a pre-requisite to utilising the air mode of transport. At the same time, under the auspices of the ICAO and the WCO, an international effort to harmonise and standardise requirements is moving forward, again led by the Europeans and the Americans, with active input from Japan, China and others. The outcome of these discussions will almost certainly be a new global standard for accessing the international air cargo network—and any business wishing to use it will have no choice but to adhere to that standard, including any associated regulated agent and known consignor certification requirements.

While Australia is well advanced in relation to air cargo security standards, without an AEO (or equivalent) program in place, Australia cannot enter into mutual recognition discussions with its trading partners in the context of the SAFE Framework, and there is no process in place for its exporters to demonstrate that they have had their security practices validated by government and certified as meeting AEO-equivalent standards. Even if Australian exporters have operations which, in fact, meet or exceed international standards, without a national program and a certification under that program, they cannot be seen as links in an Authorized Supply Chain under the SAFE

Framework. And taking international trends into account, it therefore seems ever more likely that their trading partners will deem their consignments to be high risk, and subject to the associated controls and targeting.

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[263] World Customs Organization (2012) *SAFE Framework of Standards to Secure and Facilitate Global Trade*.

[264] World Customs Organization (2012) *SAFE Framework of Standards to Secure and Facilitate Global Trade*, Annex I, p.1.

[265] See International Civil Aviation Organization (2011) *Annex 17 to the Convention on International Civil Aviation*, 9th edition, Quebec, March 2011.

[266] International Civil Aviation Organization (2011) *Annex 17 to the Convention on International Civil Aviation*, 9th edition, Quebec, March 2011.

[267] Australian Customs and Border Protection Service (2013) *Blueprint for Reform 2013-2018*, Canberra, June 2013, p.36.

[268] Department of Infrastructure and Transport (2013) Strengthening Australia's Air Cargo Supply Chain – Discussion Paper: Building a More Secure End-to-End Supply Chain for Our Australian Air Cargo Exports, Canberra, March 2013, p.4.

[269] Department of Infrastructure and Transport (2013a) *Air Cargo Security*, available at http://www.infrastructure.gov.au/transport/security/cargo/index.aspx, accessed 14 July 2013.

[270] Department of Infrastructure and Transport (2013) Strengthening Australia's Air Cargo Supply Chain – Discussion Paper: Building a More Secure End-to-End Supply Chain for Our Australian Air Cargo Exports, Canberra, March 2013.

[271] World Customs Organization (2012) *SAFE Framework of Standards to Secure and Facilitate Global Trade*, Annex I, p.1.

Annex 9 – Quality Management System (Meat and Meat Products)

The framework structure that AUS-MEAT Accredited Enterprises need to incorporate into a Quality Management System to conform with the Industry Standards of AUS-MEAT Accreditation.
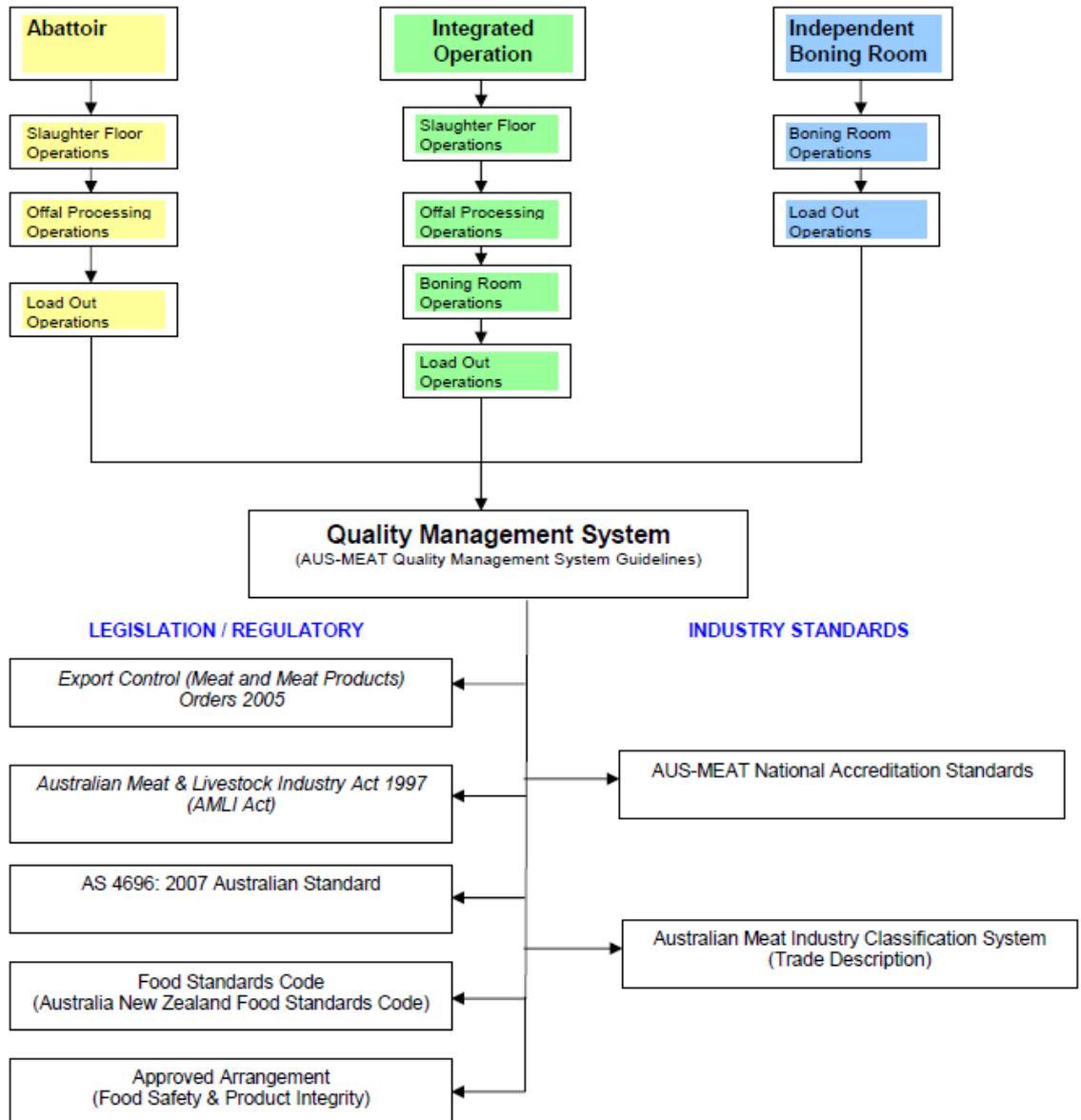
Source: AUS-MEAT Limited (2009) Quality Management Systems Guidelines & Checklist, p.7, available at https://www.ausmeat.com.au/media/46141/npe_audit_checklist_0512.pdf, accessed 9 December 2013.