World Customs Organization

Joint WCO-ICAO Guidelines on Alignment of the Customs Authorized Economic Operator (AEO) and AVSEC Regulated Agent (RA)/ Known Consignor (KC) Programmes

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1. Purpose of this document

This guidance document aims to assist International Civil Aviation Organization (ICAO) Member States and World Customs Organization (WCO) Members that want to assess the similarities of their Customs and Aviation security (AVSEC) secure supply chain programmes with the intention to further align these programmes, avoid duplications, establish a more efficient use of resources and strengthen supply chain security.

2. Background

Both ICAO and the WCO recognize that a secure supply chain facilitates the safe movement of goods by air while helping to facilitate trade.

In the ICAO context, an air cargo secure supply chain is a set of interconnected security procedures that are applied to a cargo consignment to maintain the integrity of such a consignment from the moment where screening or other security controls are applied until it arrives at its last airport of arrival, including through transit and/or transfer points. As specified in ICAO Annex 17[1], screening and other security controls are to be applied by entities that are approved by the appropriate authority, defined as regulated agents (RA) and known consignors (KC). A secure supply chain leads to a more efficient flow of cargo and provides a solution for those consignments that are difficult to screen with traditional equipment.

The WCO's SAFE Framework of Standards (SAFE FoS)[2] defines an Authorized Supply Chain as a concept under which all participants in an international trade transaction are approved by Customs as observing specified standards in the secure handling of goods and relevant information. Those participants are called Authorized Economic Operators (AEO). AEO has become a flagship programme for WCO Members as it offers an opportunity for Customs to share its security responsibilities with stakeholders, while at the same time rewarding them with a number of additional facilitation benefits. Partnership programmes with trade allow Customs to achieve more with existing resources and aim at ensuring sustainable and long-term compliance through several additional incentives.

While there are differences between these two systems, there are many similarities too. The WCO and ICAO have engaged each other to enhance cooperation between Customs and AVSEC authorities and promote alignment and synergies between both supply chain security programmes. This should ultimately lead to simplification of procedures and the eradication of duplicative security requirements and controls, to the benefit of authorities and industry.

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[1] Annex 17 (Security) to the Convention on International Civil Aviation, Tenth Edition, April 2017.
[2] SAFE Framework of Standards to secure and facilitate global trade, edition 2018.

ICAO's *Aviation Security Manual*[3] includes guidance on the approval of entities that hold or seek the AEO status as RA or KC. In Standard 3, Pillar 3 of its SAFE FoS, the WCO encourages the alignment of the various programmes that are in place to enhance the security of the international supply chain. Cooperation may include areas such as the application and initial assessment procedure, exchange of available and appropriate information of the applicant, and alignment of compliance and follow-up activities after the status/authorization has been granted. Furthermore, some national and regional authorities have enshrined the principle of alignment in their respective legislation.

3. Potential opportunities and benefits of aligning secure supply chain programmes

Many entities in the aviation industries (e.g., shippers, freight forwarders, air carriers) are eligible to apply for both the AEO and the RA or KC programmes, and may already have done so.

For this reason, there are several benefits in aligning Customs and AVSEC secure supply chain programmes.
a. Regulations that complement each other are easier to implement by industry, thereby alignment can enhance the level of compliance.
b. Alignment can lessen the administrative burden for industry as a joint approach or a more aligned approach may be adopted for application and oversight mechanisms.
c. Alignment of the handling of applications, associated processing, validation and re-validation activities can also lead to a lesser administrative burden for authorities.
d. As a result, alignment can optimize human and budgetary allocation, for authorities and industry.
e. Better alignment of these programmes can help to maximize the security posture of participating industry stakeholders.

At the same time, alignment should not compromise the required security level nor substitute responsibilities of respective authorities.

4. Enablers to successfully align secure supply chain programmes

The following elements are key to enable successful alignment of Customs and AVSEC secure supply chain programmes:
a. Political will;
b. Executive commitment;
c. Compliance with ICAO Annex 17 and the WCO SAFE FoS;
d. Adequate resources, including funding;
e. Communication and coordination between AVSEC and Customs authorities; and
f. Communication and coordination with all relevant stakeholders.

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[3] *Aviation Security Manual* (Doc 8973 - Restricted), 11th Edition, 2019.

5. Process to align supply chain security programmes

The following steps are recommended when commencing a process to align Customs and AVSEC supply chain programmes.

Step 1: Ensure there is political will and executive commitment for the alignment

An alignment process requires time and resources, and changes in legislation may be necessary. This can only be done if there is political will to do so, from both Customs and AVSEC perspectives. Both authorities need to be equally involved at the political level, but also at the management and technical expert levels.

The authorities involved may consider formally recording expressed intention and the arrangements made, for instance in an agreement, Memorandum of Understanding or exchange of letters.

Step 2: Ensure compliance with ICAO Annex 17 and the WCO SAFE FoS

WCO and ICAO Members that intend to align their Customs and AVSEC supply chain programmes should ensure that their respective programmes are compliant with the WCO SAFE FoS and ICAO Annex 17, respectively. Deficiencies relating to the State's RA and/or KC programme that were identified during the last ICAO Aviation Security Audit, if any, should have been rectified.

Step 3: Establish a project team, define a reasonable and workable timeline and agree on deliverables

The project team should consist of experts from both the Customs and the AVSEC authorities. The experts should be knowledgeable on every aspect of AEO and RA/KC, respectively, including the approval process, security requirements and oversight mechanisms. Depending on how the authorities are organized, experts from different branches (e.g. both policy and operational experts) may be necessary to be included.

An agreed timeline and deliverables will contribute to streamlining the process.

Step 4: Exchange legislation and gain understanding of each other's processes

The comparison and assessment (see steps 5 and 6) of both programmes are key elements of the alignment process. For this to be carried out, exchange of all relevant national and international legislation is essential.

To ensure understanding of the legislation and the relevant processes, the members of the project team may give presentations on their own field of expertise and invite the other experts to join on-site audits or verifications.

At this stage, the project team may also involve representatives of industry associations, as well as some already accredited AEOs and RAs or KCs. The experience of entities who participate in both secure supply chain programmes may be beneficial in

understanding them and can provide useful insights on how alignment could benefit the industry.

Step 5: Conduct a paper comparison of the legislation

By using a comparison table, the national legislations of both programmes can be assessed. The comparison should cover the complete array of requirements for entities who want to become an AEO, RA or KC. This includes :
   a. The remit and coverage of the two programmes (e.g. which operations are covered);
   b. The requirements an entity should meet before its application will be considered by the authority (e.g. holder of a VAT number, certain type of operations);
   c. The documents an entity should submit to the authority (e.g. application form, self-assessment, security programme);
   d. Past period for which documents are required;
   e. The security requirements that should be met (access controls, background checks, premises and transport security, security screening equipment, training of staff, document security, etc.);
   f. How the authority ensures that the requirements are met (e.g. review of documents, examination of premises);
   g. The validity period of an approval;
   h. Monitoring and oversight activities during the approval period;
   i. Revalidation process;
   j. Appeal procedure; and
   k. The conditions under which an approval can be suspended or revoked.

The comparison can be conducted in two ways. The first option is to take the requirements of one programme as the starting point and compare the requirements of the other programme against it. In that case, it should be ensured that all the requirements of the other programme are taken into account as well and not only those that exist in the first programme. The second option is to compare both programmes against a predefined set of elements based on the respective WCO and ICAO standards and requirements.

When carrying out the comparison, attention should be given to the fact that similar requirements may be worded differently in both programmes and that similar wording may have different meanings.

Step 6: Assess the compatibility of both programmes

The paper comparison gives clarity as to which requirements exist in each national programme. With this information, an assessment can be made on the similarities and differences in both programmes and whether any differences would or could be a barrier to aligning the programmes.

The assessment should not be made on the programmes as a whole but focus on single elements. This will benefit the decision making for which form of alignment can be

established. It is advised to not simply note the outcome of the assessment but include the reasoning behind it as well.

The following conclusions may be drawn for each element:
- Both programmes have similar requirements;
- The requirements in both programmes differ, but this is likely no obstacle for alignment;
- The requirements in both programmes differ and this is likely an obstacle for alignment.

Step 7: Confirm the assessment by conducting a practical comparison

Theory and practice may not always be in line, or elements of the paper comparison may have been misunderstood. It is therefore recommended to confirm the assessment by conducting a practical comparison in the form of a joint validation exercise.

The combined project team could jointly visit an entity that is both an AEO and a RA or KC to verify its findings. The project team may also choose to involve industry associations directly in the verification process and make use of their experiences and expertise.

Where necessary, the paper comparison and/or assessment should be adjusted.

Step 8: Establish conclusions on possible ways of alignment and seek political support

Based on the assessment, the project team concludes which ways of alignment are possible, which ways are desirable and what is needed to achieve alignment. This may include changes of legislation, guidance documents, procedures, documentary requirements, application forms, etc.

A very likely conclusion is that both programmes are compatible in such a way that Customs authorities may accept the on-site validations carried out by AVSEC authorities and vice versa. This principle has already been laid down in ICAO's Aviation Security Manual and WCO's SAFE FoS.

There may be also other ways in which the Customs AEO and the AVSEC RA/KC programmes can be aligned. Possible areas for alignment are:

- Application procedures
    - o Both authorities inform each other of new applications;
    - o Application forms are aligned;
    - o A single window approach is adopted, through which one application can be made for both programmes;
    - o A core module security programme is developed;
- Documentary validation

- o Exchange of relevant information/data on the applicant, its organisation structure and risk factors;
- On-site validation
    - o On-site validation activities are coordinated;
    - o On-site validation activities are undertaken jointly;
- Approval procedures
    - o Mutual recognition of assessment results;
    - o Mutual access to respective databases;
- Monitoring of existing approvals
    - o Results of oversight and monitoring activities are shared;
    - o The schedules for on-site visits are coordinated;
    - o Monitoring activities are undertaken jointly;
    - o Information on suspension, revocation or withdrawal of a status is shared;
- Communication and public relations
    - o Websites are updated to include the same type of information and to include reference to the other programme;
    - o Organization of joint information or training sessions for industry.

Step 9: Change legislation, regulations and/or programmes

Depending on the outcomes of the assessment and the decisions made on alignment, changes to legislation, regulations and/or programmes may be required. This could include changes in:
- primary laws;
- secondary regulations;
- the national civil aviation security programme;
- guidance documents;
- training programmes;
- websites;
- forms; and
- report formats.

When such decisions require changes in laws and regulations, opportunities for stakeholders to comment on the envisaged changes could be given.

While changes in secondary regulations or programmes can often be established in a rather short timeframe, changes in formal laws may take more time as they often involve a parliamentary approval process. If it is necessary to change a primary law, it may be considered if changes in secondary laws or programmes can be used in the meantime to temporarily establish a less far-reaching form of alignment.

Step 10: Inform industry about the legal changes

Before the new situation comes into effect, it is critical to inform industry and to consult with them in respect to possible upcoming changes. Depending on the number of entities affected and the impact of the changes, authorities have different options to do so, which can be used next to each other:

- Informing entities through a letter, email or other forms of electronic communications;
- Informing industry associations, airlines and airports via email and by publishing new information on a website or trade portal;
- Providing information when entities request or renew a status;
- Organizing workshops.

Authorities may also wish to inform those states with which they have one stop security agreements, or other related agreements.