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**SIMPLIFIED PROCEDURES/
SINGLE AUTHORISATION FOR SIMPLIFIED PROCEDURES
GUIDELINES**

Following the entry into force of Regulation (EC) No1192/2008, revision 4 of the guidelines was drafted by the Customs 2013 Project Group on SP/SASP in 2008/2009 and published on CIRCA and the TAXUD website in mid-2009. Following the special report of the European Court of Auditors No 1/2010 and the recommendations of the European Parliament to the Commission, a new revision started in July 2011.

Revisions 5.1 to 5.6 of the document were internal reviews drafted during the 5 meetings of the project group which took place till December 2011. On 31 January 2012, revision 5.6 was explained and discussed with the representatives of the TCG and the delegates of the Customs Code Committee, Import and Export formalities Section. Subsequently the Commission received a number of comments, which it has taken into account.

Revision 5 is now published for a test period of 6 months **from 15th May till 15th November 2012**. The COM expects a wide publication and implementation in the MS.

Depending on the results of the test period, a new examination of the guidelines will take place at the beginning of 2013.

SIMPLIFIED PROCEDURES/
SINGLE AUTHORISATION FOR SIMPLIFIED PROCEDURES

GUIDELINES



TABLE OF CONTENTS

ABBREVIATIONS.....	12
PART 1, GENERAL INFORMATION	13
Section I - INTRODUCTION	13
Section II - DEFINITIONS	14
1.II.1. Simplified declaration procedure (Article 76 (1) (b) of the CC)	14
1.II.2. Local clearance procedure (Article 76(1) (c) of the CC)	14
1.II.3. Single authorisation (Article 1 point 13 of the CCIP)	14
1.II.4 Integrated Authorisation / Integrated Single Authorisation (Article 1 point 14 of the CCIP)	15
1.II.5 Authorising/Participating MS in case of SASP	15
1.II.6 Notification (Articles 266, 285 CCIP...)	15
PART 2, COMMON PROVISIONS FOR SP/SASP	16
Section I - CRITERIA FOR GRANTING AN AUTHORISATION	16
Section II - CRITERIA FOR GRANTING AN AUTHORISATION FOR SP	17
2.II.1 Criteria for SDP (Article 253c (1), first sub-paragraph CCIP)	17
2.II.2 Criteria for the LCP (Article 253c (1), second sub-paragraph CCIP)	18
SECTION III - APPLICATION PROCEDURE.....	19
2.III.1 Who can apply?	19
2.III.2 Where to apply?	20
2.III.3. Self-Assessment	20
2.III.4 Making an application	21
SECTION IV - EXAMINATION OF THE APPLICATION AND PRE-AUDIT.....	22
2.IV.1. Examination of the application	22
2.IV.2 Following phases of the pre-audit	22
2.IV.3 Control plan	26
Section V - PROHIBITIONS AND RESTRICTIONS	26
2.V.1. Background	26
2.V.2. Core principles	26
2.V.3. Import and export of goods subject to P&R	27
2.V.4. Controls	28

SECTION VI - GUARANTEES	28
SECTION VII - ISSUING PROCEDURE.....	29
2.VII.1. Period of validity	29
SECTION VIII - SUSPENSION/REVOCAION.....	29
2.VIII.1. Suspension	29
2.VIII.2. Revocation	32
SECTION IX - MANAGEMENT OF THE SIMPLIFIED PROCEDURES.....	33
2.IX.1 General remarks	33
2.IX.2. SDP	34
2.IX.3. LCP	36
2.IX.4. Exemptions from the supplementary declaration	40
SECTION X - RISK ANALYSIS	42
2.X.1. SDP	42
2.X.2. LCP.....	42
2.X.3. Specific controls of goods declared under customs procedure code 42.....	43
SECTION XI - RECONCILIATION OF THE SIMPLIFIED DECLARATION AND THE SUPPLEMENTARY DECLARATION / POST-CLEARANCE CONTROLS.....	43
2.XI.1. Reconciliation of the simplified declaration and the supplementary declaration	43
2.XI.2. Post-clearance controls on the supplementary declaration and supporting documents	44
SECTION XII - POST-CLEARANCE AUDITS	44
2.XII.1. Definition	44
2.XII.2. Goal	45
2.XII.3. Post-clearance audit process	45
2.XII.4. Reassessment of the authorisation	47
PART 3, SPECIFIC PROVISIONS FOR SASP.....	47
SECTION I - TRADITIONAL OWN RESOURCES, THE ADMINISTRATIVE ARRANGEMENT AND THE CONVENTION.....	47
SECTION II - APPLICATION PROCEDURE	48
3.II.1. Who can apply for a SASP	48
3.II.2. Where to apply	48
3.II.3. Making an application for SASP	49
SECTION III - EXAMINATION OF THE APPLICATION AND PRE- AUDIT.....	49
SECTION IV - GUARANTEES	49

SECTION V - CONSULTATION PROCEDURE	50
SECTION VI - PROHIBITIONS AND RESTRICTIONS	50
3.VI.1. In case of national P&R	51
3.VI.2. In case of EU P&R	51
3.VI.3. Dealing with breaches or infringements of P&R	51
SECTION VII - REQUIREMENTS FOR IMPORT VAT	52
3.VII.1. Background	52
3.VII.2. Requirements for import VAT	52
SECTION VIII - EXCISE DUTIES.....	53
3.VIII.1. Guarantees	53
SECTION IX - STATISTICS	53
3.IX.1. Background	53
3.IX.2. Requirements for statistics	54
SECTION X - JOINT CONTROL PLAN/EXCHANGE OF INFORMATION ON CONTROLS	54
SECTION XI - ISSUING PROCEDURE	55
3.XI.1. Time-limits	55
3.XI.2. Period of validity	56
SECTION XII - MANAGEMENT OF THE SASP	56
3.XII.1. SASP with Simplified Declaration Procedure	56
3.XII.2. SASP with Local Clearance Procedure	59
SECTION XIII - POST-CLEARANCE AUDITS	62
SECTION XIV - IRREGULARITIES	62
3.XIV.1. Background	62
3.XIV.2. Types of irregularity (examples)	62
SECTION XV - DISPUTES AND APPEALS	64
3.XV.1. Disputes between the authorities involved	64
3.XV.2. Disputes between holders of SASP; the right of appeal	64
3.XV.3. Reduction in levels of dispute	64
PART 4, CONCLUSION	65
PART 5, ANNEXES	66
ANNEX I ADVICE OF THE COLLECTION COSTS AND POSSIBLE SCENARIOS FOR THE SHARING OF COLLECTION COSTS.....	67
ANNEX II IMPORT VAT PROVISIONS IN THE EC VAT DIRECTIVE (2006/112/EC)	75
ANNEX III MEMBER STATES BASIC IMPORT VAT REQUIREMENTS	78
ANNEX IV GENERAL RECOMMENDATIONS FOR PRE-AUDIT.....	95

ANNEX V STANDARD CHECK-LIST FOR PRE-AUDIT VISITS.....	98
ANNEX VI DIVISION OF RESPONSIBILITY	106
ANNEX VII JOINT CONTROL PLAN BETWEEN THE CUSTOMS ADMINISTRATIONS PARTICIPATING IN THE SINGLE AUTHORISATION FOR THE SIMPLIFIED PROCEDURES.....	107
ANNEX VIII JOINT CONTROL PLAN.....	109
ANNEX IX CONTROL PLAN	113
ANNEX X REQUEST FOR CONTROL IN THE CONTEXT OF A SINGLE AUTHORISATION FOR SIMPLIFIED PROCEDURES.....	120
ANNEX XI ECA-CONTROL MODEL FOR SIMPLIFIED PROCEDURES.....	121
ANNEX XII CONCLUSIONS OF THE ECA ON THE MS PRACTICES REGARDING SIMPLIFIED PROCEDURES.....	123
ANNEX XIII MS METHODOLOGY	125
ANNEX XIV FREQUENTLY ASKED QUESTIONS	131

The structure of these guidelines:

Part 1 contains the introduction and defines the different main concepts used.

Part 2 provides explanations on the common provisions for national SP and SASP.

Part -3 deals with the specific provisions for SASP, mainly aspects which should be clarified before the granting of the authorisation, both by customs authorities and economic operators.

Part 4 is a conclusion and the link with the future centralised clearance.

Part 5 contains all the Annexes, giving more practical help to both customs authorities and economic operators.

Abbreviations

AA	Administrative Arrangement
AEO	Authorised Economic Operator
AEO C	Authorised Economic Operator “Customs Simplifications”
AEO F	Authorised Economic Operator “Customs Simplifications/Security and Safety”
CC	Community Customs Code - Regulation (EEC) No 2913/92
CCIP	Customs Code Implementing Provisions - Regulation (EEC) No 2454/93
CN	Combined Nomenclature
CPEI	Customs Procedures with Economic Impact
ECA	European Court of Auditors
EU	European Union
LCP	Local Clearance Procedure
MCC	Modernised Customs Code
MS	Member State(s)
NSA	National Statistical Authorities
P&R	Prohibitions and Restrictions
SASP	Single Authorisation for Simplified Procedure
SME	Small and Medium Enterprises
SDP	Simplified Declaration Procedure
SP	Simplified Procedures
VAT	Value Added Tax
TOR	Traditional Own Resources

PART 1, GENERAL INFORMATION

Section I - INTRODUCTION

These guidelines have been produced for both customs authorities and economic operators, in order to ensure a common understanding of the provisions and requirements laid down in the CC and CCIP for SP and Single authorisations for simplified procedures (SASP). They are applicable to both national authorisations and SASP (both for the simplified declaration procedure, hereafter SDP, and the local clearance procedure, hereafter LCP).

These guidelines do not constitute a legally binding act and are of an explanatory nature. Please consult website of DG Taxation and Customs Union for the latest version of the SP/SASP guidelines:

http://ec.europa.eu/taxation_customs/customs/procedural_aspects/general/centralised_clearance/index_en.htm

The main goals of the guidelines are the following:

1. To ensure the uniform application of the rules on granting authorisations for SP as appropriate, including the provisions on records to allow the appropriate level of audit.
2. To improve the application/authorisation process, including the time taken, by developing identical rules for granting authorisations.
3. To recommend a common assessment of conditions and criteria for the granting of both national and Single Authorisations for the simplified declaration and the local clearance procedures.
4. To promote as far as possible the electronic submission of declarations and/or notifications for SP.
5. To ensure appropriate risk analysis, using the results of audits and of transaction-based controls.

□

The Lisbon strategy, which aims at making the EU the most competitive economy in the world, has considered it as crucial to harmonise and to simplify the environment for both national and EU-wide authorisations, leading to their consistent application across all MS. This was the purpose of Regulation (EC) No. 1192/2008 of 17 November 2008, which amended the CCIP.

This Regulation lays down provisions that allow the putting in place of a real internal market, where trade competitiveness will increase and distortion of competition between companies in different MS is avoided. It establishes common rules for national (LCP or SDP) and EU-wide simplified procedure authorisations to ensure common practice: conditions and criteria for granting the authorisation, amendment, suspension, revocation, etc.

SASP, formerly known as Single European Authorisations (SEA), concern more than one MS. They enable an economic operator to be authorised in one MS for import and export freight operations throughout the EU. This enables economic operators to centralise the accounting and payment of customs duties for all transactions in the "**authorising MS**", although the physical control and release of goods may take place in another MS, called the "**participating MS**". This allows savings in administrative and transaction costs.

The European Commission has always given whole-hearted support to the project of harmonising and simplifying the procedures. However, not all the formalities are yet centralised in the authorising MS, in particular VAT, statistics and excise formalities. These national procedures are further explained in the relevant chapters.

Section II - DEFINITIONS

1.II.1. Simplified declaration procedure (*Article 76 (1) (b) of the CC*)

The simplified declaration procedure enables goods to be entered for the customs procedure in question on presentation of a simplified declaration, an administrative or commercial document. The economic operator must subsequently present a supplementary declaration (see point 2.IX.4 for exemptions from the requirement for a supplementary declaration).

1.II.2. Local clearance procedure (*Article 76(1) (c) of the CC*)

The local clearance procedure allows the customs declaration to be lodged as an entry in the authorisation holder's records while the goods are at the premises of the person concerned or at another place designated or approved by customs. The economic operator must subsequently lodge a supplementary declaration (see point 2.IX.4 for exemptions from the requirement for a supplementary declaration).

1.II.3. Single authorisation (*Article 1 point 13 of the CCIP*)

A Single authorisation is an authorisation involving the customs administrations of more than one MS for one of the following procedures:

- the SDP pursuant to *Art. 76(1) (b) of the Code*, or
 - the LCP pursuant to *Art. 76(1) (c) of the Code*,
- or
- customs procedures with economic impact pursuant to *Art. 84(1) (b) of the Code*
- or
- end-use pursuant to *Article 21(1) of the Code*.

The two first cases are also called Single Authorisation for Simplified Procedures (SASP).

1.II.4 Integrated Authorisation / Integrated Single Authorisation (*Article 1 point 14 of the CCIP*)

An "Integrated authorisation" means an authorisation to use more than one of the procedures referred to in point 1.II.3 in one MS. It may take the form of an integrated single authorisation where more than one customs administration is involved. For instance, an Integrated Single Authorisation may combine a Single Authorisation for SDP and a Single Authorisation for customs warehousing. It means that an economic operator can submit an application for more than one customs procedure to one administration and receive an authorisation covering all of these procedures.

With regard to the application process, an economic operator who applies for inward processing, customs warehousing and the LCP must submit the three relevant continuation forms of Annex 67 (one for each customs procedure).

For practical reasons related to the supervision of the authorisation, most MS do not grant Integrated Authorisations, but authorisations for each customs procedure separately.

However, if for example, inward processing is to be carried out in two different MS under LCP, an Integrated Single Authorisation could be granted.

1.II.5 Authorising/Participating MS in case of SASP

The authorising MS has a leading role. This MS is the main contact point for applicants and for authorisation holders. It is responsible for the authorisation process, the granting of the authorisation and the monitoring of the authorisation.

The participating MS is involved in the authorisation process in accordance with the consultation procedure rules. It may also be responsible, jointly with the authorising MS, for the supervision of operations and the release or controls of the goods.

1.II.6 Notification (*Articles 266, 285 CCIP...*)

The notification as used in these guidelines refers to the notification of the intention to release the goods for the procedure concerned under a LCP authorisation.

PART 2, COMMON PROVISIONS FOR SP/SASP

Section I - CRITERIA FOR GRANTING AN AUTHORISATION

Whether an application for the SDP or the LCP is for national SP or SASP use, the respective conditions and criteria to be fulfilled are the same.

In the interests of consistency, the conditions and criteria to be fulfilled for the SDP and the LCP have been aligned with the AEO criteria outlined in *Articles 14h to 14j CCIP*. The table below provides the relevant criteria and the legal references in the CCIP.

Simplified Procedure	Conditions and criteria applicable	CCIP reference
SDP	Customs Compliance Appropriate record keeping Financial Solvency	<i>Article 14h, with the exception of point (c), paragraph 1</i> <i>Article 14i points (d), (e) and (g)</i> <i>Article 14j.</i>
LCP	Customs Compliance Appropriate record keeping Financial Solvency	<i>Article 14h, with the exception of point (c), paragraph 1;</i> <i>Article 14i; and</i> <i>Article 14j.</i>
SASP according to the type of SP in use	LCP criteria or SDP criteria	

Conditions and criteria applicable for granting SP and SASP are briefly presented in section 2.II below. As these are the same as for AEO, full details are given in the Authorised Economic Operator Guidelines, Part 2.

These Guidelines can be consulted on the DG Taxation and Customs Union customs and security web pages:

http://ec.europa.eu/taxation_customs/resources/documents/customs/policy_issues/customs_security/AEO_guidelines_en.pdf

As a general consideration, criteria already assessed in connection with granting AEO C or F will not be checked again (*Articles 261 (2), 264 (2) CCIP*), unless the economic operator has incorporated changes, i.e. a new IT system, or starts a new process, i.e. new procedures or operations.

In addition to this, it may be necessary to discuss with the applicant some specific requirements for the use of the simplified procedures applied for, e.g.:

- the form of simplified declarations or notifications before release e.g. in the IT system of the economic operator. The simplified declarations or notifications have to be submitted electronically (*Article 253a CCIP*),
- the completion of the simplified declarations or the entry in the records in order to provide the supplementary declaration e.g. in the IT system,
- the places where the goods are to be presented, where appropriate,
- the provision of a guarantee for import duties and other charges (*Article 253 (5) CCIP*).

Operators who are AEO are required to continuously monitor their compliance with the criteria and with the obligation to inform customs when there are changes that may affect the AEO status.

The date of issue of the AEO certificate and any monitoring and/or reassessments done after that, have also to be taken into account. However, ongoing monitoring of the conditions and criteria by the holder will ensure that issues which may affect AEO status are dealt with on an ongoing basis (see Part 5 “management of the authorisation” of the AEO guidelines).

To ensure a fair and equitable application of the conditions and criteria as outlined above, the authorising customs authorities must take due account of the specific characteristics of the applicant, including its size and the volume of its operations.

Section II - CRITERIA FOR GRANTING AN AUTHORISATION FOR SP

2.II.1 Criteria for SDP (*Article 253c (1), first sub-paragraph CCIP*)

2.II.1.1. Appropriate record of compliance with customs requirements (*Article 14h CCIP*)

This criterion shall be considered fulfilled if none of the following persons over the last three years preceding the submission of the application have committed any serious infringement or repeated infringements of customs rules.

- the applicant,
- the persons in charge of the applicant company or exercising control over its management,
- the person responsible in the applicant company for customs matters.

For detailed information regarding the check of compliance with this criterion, in particular for the definition and evaluation of minor, serious and repeated infringements, please see the AEO Guidelines, Part 2, point 2.1.

2.II.1.2 Satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls (*Article 14i CCIP*)

For the purposes of granting an authorisation for use of the SDP, the applicant must comply with the following criteria of *Article 14i*:

- (d) have an administrative organisation which corresponds to the type and scale of operations and which is suitable for managing the flow of goods and have internal controls that make it capable of detecting illegal or irregular transactions;
- (e) where applicable, have satisfactory procedures for handling licenses and permits related to trade policy or trade in agricultural products;
- (g) ensure that employees are made aware of the need to inform the customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the customs authorities of such occurrences;

For detailed information regarding the checking of compliance with this criterion, please see the AEO Guidelines, Part 2, point 2. 2.

2.II.1.3 Proven financial solvency (*Article 14j CCIP*)

The condition relating to the financial solvency of the applicant shall be deemed to be met if its solvency can be proven for the past three years. "Solvency" means a good financial standing which is sufficient for the applicant to fulfil its commitments with regard to customs and fiscal debts, which may be incurred due to the use of a simplified procedure and deferred payment.

If the applicant has been established for less than three years, solvency shall be judged on the basis of records and data available.

For detailed information regarding the check of compliance with this criterion, please see the AEO Guidelines, Part 2, point 2.3.

2.II.2 Criteria for the LCP (*Article 253c (1), second sub-paragraph CCIP*)

2.II.2.1 Appropriate record of compliance with customs requirements (*Article 14h CCIP*)

The same as under point 2.II.1.1.

2.II.2.2 Satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls (*Article 14i CCIP*)

In order to enable the customs authorities to establish that the applicant has a satisfactory system of managing commercial and, where appropriate, transport records, and complies with that particular criterion, the applicant shall fulfil the requirements laid down in *Article 14i CCIP*.

For detailed information regarding the checking of compliance with this criterion, please see the AEO Guidelines, Part 2, point 2. 2.

2.II.2.3 Proven financial solvency (*Article 14 j CCIP*)

The same as under point 2.II.1.3.

SECTION III - APPLICATION PROCEDURE

2.III.1 Who can apply?

Under current legislation, only natural persons, legal persons or associations of persons who are not defined as a legal person but are recognised by EU or national law as having the capacity to perform legal acts¹ established in the customs territory of the EU can apply for SP/SASP. National law defines who is considered as a natural person, a legal person or an association of persons recognised as having the capacity to perform legal acts but lacking the legal status of a legal person.

Thus, those different persons established in the customs territory of the EU can make an application for the SDP or the LCP at national level or for the purpose of a SASP.

Multi-national or large businesses usually consist of a parent company and several entities, each of which is an **individual legal person**, i.e. a separate legal entity registered in the local company register in accordance with the company law of the MS where the relevant entity is established. It can also take the form of **an association of persons** recognised as having the capacity to perform legal acts, but lacking the legal status of a legal person (Article 4(1) of the CC). In this case, either all the entities or the association of persons can apply for an authorisation for SP/SASP, or alternatively one legal entity can apply for a SP/SASP for themselves and to act as a representative for other legal entities within their group.

However, multinational companies can also consist of a parent company plus several entities located in different MS, which are not necessarily **“persons,” as defined by Article 4(1) of the Customs Code**, i.e. offices, premises or other locations of the company itself. The parent company could apply, but not a branch without the required status. Economic operators who want to apply for a SP or SASP have to keep in consideration to which group they belong.

Customs authorities must be consistent with this and should not treat a trader's application for SP differently from an application for another facilitation. For example, customs cannot deem an economic operator to be a legal entity when applying for AEO status, but deem it to be just a branch when it applies for SP (further explanation can be found in the AEO guidelines, Part 1.II.2).

In the case of an application by a natural person, the person must be normally resident in the customs territory of the EU. In the case of a legal person or association of persons, the

¹ Article 4(1) CC.

permanent business establishment, registered office or central headquarters must be located in the customs territory of the EU².

If the applicant wishes to act as a customs representative, an application may be accepted, subject to satisfactory procedures being in place to identify the persons represented and to permit appropriate customs controls (i.e. required documentary and physical checks).

The client shall be identified in the customs declaration or notification for release, but not always in the authorisation.

For further information regarding representation, please consult the MS authorities concerned.

2.III.2 Where to apply?

In respect of national authorisations for SP, national rules may apply. The position concerning where to apply for SASP is outlined in Part 3.II.2 in accordance with *Articles 253h (1) and 14d CCIP*.

Please see Annex XIV of the guidelines for further explanations for multi-national traders or large businesses.

2.III.3. Self-Assessment

A self-assessment process by applicants for national SDP or LCP or for SASP is recommended, in order to ensure that the application process can run smoothly and more quickly. A self-assessment process will enable the applicant to assess, prior to making a formal application, whether real benefits will be obtained from SP and to identify whether there will be a need to make adjustments to operations to comply with the conditions and criteria, as outlined under section 2.I.

The main goal of the self-assessment is for the applicant to carry out an assessment of business processes to check whether the criteria are met, to identify the risk areas and to see if and how these risks are covered or where additional internal control measures are necessary.

The completed self-assessment may be used as a basis for further assessment by the authorising customs administration. However, it is the responsibility of the customs authority to obtain assurance by its own means of the applicant's compliance with all requirements for granting an authorisation.

If the applicant holds AEO status for customs simplifications under *Article 14a, paragraph 1, (a) or (c) CCIP*, the self-assessment process is not required, as the conditions and criteria for granting simplified procedures are part of the criteria for granting the AEO

² Article 4(2) CC. For permanent business establishment, please refer to descriptions in the AEO guidelines, second paragraph of section 1.II.2.

status. But AEOs will have to make sure that the information provided to customs authorities is still valid. They have to notify customs of any relevant changes, such as changes in the administration or the IT system of the company.

Economic operators who are not AEOs are advised to use the self-assessment questionnaire when applying for SP.

As far as some of the AEO criteria are the criteria for granting authorisations for SP/SASP, it is recommended that as a basis for self-assessment, the questionnaire for the application for AEO status is used. This questionnaire and its explanatory notes may be found on the DG Taxation and Customs Union website:

http://ec.europa.eu/taxation_customs/resources/documents/customs/policy_issues/customs_security/aeo_self_assessment_en.pdf;

Further information on the self-assessment process can also be obtained from the authorising customs authorities.

2.III.4 Making an application

An application for the SDP or the LCP should be submitted to the authorising customs authorities either in writing, using the form set out in Annex 67 CCIP, or electronically, where the authorising customs authorities accept or require applications in electronic form. Specific rules relating to the designation of the authorising customs authorities applicable in respect of a SASP application will be explained in detail in point 3.II.3.

Box 1.d of the application form must be interpreted in relation to the person who is intended to be the holder of the authorisation and its purpose is to identify in which capacity that person wants to use the SDP or the LCP:

- an economic operator using it for its own imports/exports and/or
- as a direct and/or indirect representative using it for imports or exports of its clients.

In the second case mentioned above, satisfactory records and procedures must be in place allowing the authorising customs authorities to identify the persons represented and to perform appropriate customs controls (as laid down by Art. 253(4) CCIP). If the applicant/holder of the authorisation is a direct or an indirect representative, then box 1d must be completed according to whether the holder of the authorisation wishes to use it for imports/exports of clients, acting as a direct representative (in the name of and on behalf of the clients) or as an indirect representative (in his own name but on behalf of the clients). In some MS, the applicant/holder of the authorisation may opt to use a direct representative to lodge the customs declaration (for instance, a representative can use a direct representative to lodge a customs declaration). In this last case, box 15 can be used to indicate who will be the representative lodging the customs declarations.

The authorising customs authorities may request additional information. In such circumstances, the authorising customs authorities will provide the applicant with an opportunity to make the necessary adjustments to the application before any consideration of a formal rejection of the application takes place.

The applicant must indicate a contact point to provide all information required by the authorising customs authorities for an assessment of the conditions and criteria governing the granting of the authorisation as outlined under paragraph 2.I.

For SASP, the applicant gives consent to the authorising and participating customs authorities for the exchange of necessary information with other national authorities or Member States involved in the authorisation by signing the application form. The applicant can also give consent for access to non-confidential data by the public.

SECTION IV - EXAMINATION OF THE APPLICATION AND PRE-AUDIT

2.IV.1. Examination of the application

a) Check that the application is complete and the applicant is eligible

The customs authorities shall check whether the applicant is a person established in the EU.

b) Gathering of information regarding the applicant/application

The customs authorities shall take into account the specific characteristics of economic operators, especially of SME. Consideration should be given to differences arising from the type, size and logistical structure of the applicant (*Article 253c (1), third subparagraph CCIP*). The criteria remain the same (no reduced or ad hoc criteria) but the way they are assessed is different and may be more flexible.

SME are defined in a Commission Recommendation of 6 May 2003 (OJ No. L124, 20.5.2003, p. 36). The categories are listed in the AEO guidelines, section 3.III.2.

For further explanations, please see Annex XIV "Frequently Asked Questions".

The AEO guidelines also give examples of specific economic activities.

Special consideration should be given to sensitive goods or P&R goods. Customs may decide to exclude some of these goods from the SP authorisation. The description of and the way to handle these goods are explained in sections 2.V and 3.VI of the guidelines.

c) Acceptance of the application

The customs authorities need to have all necessary information before they can decide whether or not to accept the application. Only after acceptance of the application can the authorising customs authorities start the pre-audit process to determine if the applicant fulfils all the necessary criteria and conditions for granting the authorisation.

2.IV.2 Following phases of the pre-audit

a) Pre audit

The goal of the pre-audit is:

- To ensure that the conditions and criteria are fulfilled, including checking whether the information provided in the self-assessment questionnaire is correct;
- To ensure that the accounting and internal control organisation meets the requirements;
- To form an opinion about whether the requirements about the (preliminary) auditability are fulfilled.
- To assess the operator's compliance level.

The following phases are recognised in the pre audit process:

- preparation

Gathering and analysing available internal (compliance) information, taking into account specific economic activities (postal operators, rail etc.) and factors facilitating the preparation process, like existing customs authorisations, or certifications or conclusions provided by external experts.

- planning

- Preparing the audit plan based on the findings during the preparation.
- A standardised check-list to support the planning (see Annex V of the guidelines) is available as an example of a check-list to use.

- execution

The subsequent process to decide whether an authorisation can be granted includes an examination of whether or not the company can fulfil its obligations through a pre-audit process.

According to *Article 253b (4) CCIP*, before granting an authorisation, the customs authorities shall audit the applicant's records, unless the results of a previous audit can be used. The customs authorities should also audit the accounts and IT system of the operator according to the conditions and criteria which apply.

A visit of the company and its premises as a part of the pre-audit is recommended to understand:

- the business (activities, legal structure etc)
- the Internal organisation
- the (Financial)Accounting and Logistic systems
- the IT environment & IT controls
- the internal and external control environment
- the Operator's monitoring system

and to check the existence of:

- an adequate audit trail for the relevant processes
- adequate data retention procedures

- adequate back up & recovery measures

During the visit it is also recommended to look at the kinds of goods covered by the authorisation and at the locations mentioned in the application.

If the results of a previous visit, preferably done the same year, can be re-used, for instance for the granting of the AEO status, there may be no need for another visit.

- evaluation

The risks affecting the economic operator's business in relation with the SP have been identified and assessed during the pre audit and covered by appropriate audit measures. Customs may advise the economic operator on how to deal with the risks. Any remaining risks should be acceptable from the customs point of view.

- finishing the pre audit with intermediate and final report

During the pre-audit preparation phase, the customs authorities shall check the information received. The results of any previous audit of the economic operator should be taken into consideration.

For authorisations involving more than one site, the customs authorities shall check that all of the sites and their relationship to each other are documented, with the roles and responsibilities of each clearly defined. For instance, if a company presents the goods at its premises but at various sites, the customs authorities shall check the person responsible for presenting the goods at each site and for their contacts with the declarant.

Any weaknesses identified during the pre-audit process have to be mentioned in the report.

Tools for the pre-audit:

For the assessment of the risks during the pre-audit phase, see Annex IV (for a summary of Annex II of the AEO guidelines) and Annex V for a recommended common check-list to use during the visit of the company.

The methodology recommended by the ECA³ is described in Annexes XI and XII.

To identify the risks by a mapping process, the AEO compact model published on the DG Taxation and Customs Union website could be used:

http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_security/aeo/index_en.htm

The risk will be assessed according to the kind of procedure and benefits the economic operator is applying for.

³ This methodology is described in the ECA's special report No.1/2010", Are simplified customs procedures for imports effectively controlled?" The Council's conclusions on this report are also relevant

Finally, an example of a national methodology is attached in Annex XIII. The lines of this methodology are considered as good practice by the ECA. The Commission considers that it is of the utmost importance that such a methodology should be followed.

b) Report of the pre-audit containing:

As mentioned in the AEO guidelines, the report should include the following information in a clear and systematic way:

- 1) a clear picture of the applicant (business, role in the supply chain, customs-related activities, etc.);
- 2) a clear description of all risk areas considered and any follow-up actions suggested to applicant;
- 3) a clear report of any action the applicant has undertaken, or mentioned to the auditors;
- 4) a clear recommendation on whether to grant the SP or not according to the result of auditing activities;
- 5) in case of SASP, a complete and detailed justification why the SASP should not be granted, including any information received from other MS, stating whether they have been obtained through the “information” and/or “consultation” procedure.
- 6) a written assessment of the degree of compliance with each of the requirements laid down in the CC and CCIP.

c) Decision on the basis of the risk assessment of the operator

In terms of competence, the decision process is according to the national organisation of the customs administration of the authorising MS. The opinion of the auditors is obviously a key element in this decision.

This decision should be on the basis of the report (documented), which should give all the grounds for rejecting or granting the authorisation.

For national SP, it is recommended that the time-limit for taking a decision on the application should follow the time-limit laid down for AEO status, including the possible extension (*Article 6(2) CC*). Where the applicant is an AEO, this decision should be taken as soon as any possible additional requirements have been checked.

It is important to recall that the right for persons, to whom a decision - which would adversely affect them - is addressed, to express their point of view before this decision is taken, on the basis of grounds to be communicated by the customs authorities (*'right to be heard'*), reflects a general principle of EU law..

d) Draft of the authorisation granted

Authorisations for all kind of SP shall be drafted on the basis of the model of Annex 67 CCIP.

2.IV.3 Control plan

To be able to monitor compliance with the conditions laid down for the use of simplified procedures, a control plan should describe the activities (like controls and post-clearance audits) that are to be carried out for national or SASP authorisations.

See Annexes VIII and IX: the joint control plan and the content of the control plan for SASP, which can also be used for national control plans.

Section V - PROHIBITIONS AND RESTRICTIONS

2.V.1. Background

European (EU) legal acts lay down P&R and thus provide a legal basis for preventing or restricting the import and export of goods for various reasons, in particular security, the protection of health and the environment. The legal basis may be by Regulation, Decision or Directive - the latter need to be transposed into national legislation. National legislation establishes provisions on sanctions. Depending on the legal act, controls are to be carried out either at the place of entry or exit, or when goods are placed under a customs procedure, such as release for free circulation. Customs administrations have a core function in the control of goods subject to P&R entering or leaving the EU as they are generally the only authorities with a complete overview of the trade flow of goods entering or leaving the customs territory.

National legislation establishes P&R, either as a consequence of tighter requirements on safety and security, as allowed by *Article 36 of the Treaty on the Functioning of the EU*, or as the national application of an international convention or national prohibitions established unilaterally. By their nature, national P&R are unlikely to be identical in coverage or control in every MS; some may be unique to one MS only.

Control responsibilities on P&R based on EU or national law can also be given to a combination of law enforcement agencies.

2.V.2. Core principles

It is necessary to ensure that the procedure for granting the simplified procedure authorisation takes account of the potential risks related to the goods to be imported or to be exported under that procedure. Therefore, it is recommended to allow or to take the decision to forbid the use of simplified procedures for goods subject to P&R through consultation between the customs authorities and the authorities responsible for the P&R policies at stake. During the consultation procedure, the decision to exclude certain goods from these procedures has to be taken by the MS(s) where P&R are in place. It has to be clearly indicated in the authorisation which goods are excluded from these procedures, and when national P&R apply.

2.V.3. Import and export of goods subject to P&R

Depending on the simplified procedure in question, there may be limitations to allow goods subject to P&R to be included in an authorisation, or there might be conditions on how those goods are to be treated.

Goods not eligible for release for free circulation under a SP (e.g. because additional checks must be carried out or because of a missing certificate) could, for example, be placed in temporary storage or under the customs warehousing procedure as soon as the appropriate conditions are fulfilled. Where the conditions cannot be fulfilled, they have to be disposed of in accordance with the relevant rules.

AEOs should not benefit from further simplifications where these would affect customs or other authorities' control of prohibited or restricted goods.

(a) *National authorisation for SDP*

All relevant licences/permits have to be presented or made available to the customs authorities at the time the initial (not supplementary) declaration is made. National legislation should provide for sanctions in cases where the relevant licences/permits are not presented or made available in time. The initial declaration must provide sufficient information so that prohibited/restricted goods can be identified. This is necessary to allow customs authorities to undertake the appropriate controls, and to request, where necessary, the submission of documents indicated as available.

(b) *National authorisation for LCP*

In general from a practical point of view, LCP can only be used for prohibited or restricted goods where an adequate level of protection can be ensured (LCP with notification is strongly recommended). Where arrangements are put in place with the authorities responsible for the P&R policies at stake, authorisation could be given to present or make available the relevant licences/permits at the time the notification is made. The national requirements relating to simplified procedures should apply.

The conditions for using the LCP for goods subject to P&R should be clearly laid down in the authorisation. These conditions must provide that the notification specifically allows the identification of the goods as prohibited or restricted. The customs authorities must always be in a position to carry out controls to the necessary extent.

(c) *For SASP, please section 3.VI of the guidelines*

2.V.4. Controls

Control by the customs authorities means the performance of specific acts, such as referral of consignments to relevant competent authorities, examining goods and verifying the

existence and authenticity of documents and that such documents relate to the goods being imported.

To permit effective controls of goods that may be subject to P&R, MS must ensure that the customs control plan clearly specifies the roles and responsibilities of the customs administrations on these P&R and that this control plan highlights the need for collaboration for that purpose with the relevant authorities responsible for the individual policy areas in which there P&R are established.

The control plan set up for each authorisation should specify in detail how restricted goods should be controlled. The plan should set out precisely how licenses are to be processed, and the timescales for doing so. It is not mandatory for national SP but strongly recommended.

SECTION VI - GUARANTEES

Insofar as import duties are suspended, the person who will be liable in case of a customs debt must provide a guarantee for the import duties. In situations of deferred payment the debtor must provide a guarantee. Depending on the MS, the guarantee may also cover other charges such as VAT and Excise. In any case, the guarantee must be in place before the authorisation is used.

Three possible situations can be distinguished:

- the authorisation holder acts in his own name and on his own behalf: the holder provides a guarantee;
- the authorisation holder acts as a direct representative: either the person represented or the authorisation holder provides the guarantee;
- the authorisation holder acts as an indirect representative: either the authorisation holder or the person represented provides the guarantee .

In all of these cases the guarantee may also be provided by another person on behalf of the one who must provide the guarantee (*Article 189 (3) CC*).

In the case of release for free circulation, the guarantee must be set at 100% of the customs debt. The guarantee must be sufficient to cover the full amount of customs duties and other charges that may arise under the simplified procedures in a specific period. If the total amount of import duties declared exceeds the guarantee amount, the customs authorities should require the holder of the authorisation to increase the amount of the guarantee. In order to monitor the sufficiency of the guarantee amount, regular checks concerning a certain period of time are strongly recommended.

SECTION VII - ISSUING PROCEDURE

After having verified that the applicant qualifies for the authorisation, the competent customs authorities will grant the authorisation for the SP. For the granting of an

authorisation for SP, the customs authorities must use the form set out in Annex 67 CCIP. In accordance with *Article 6(2) CC*, the decision must be communicated at the earliest opportunity to the applicant. Some MS have specific time limits that apply in this case.

2.VII.1. Period of validity

The validity of an authorisation for SP is open-ended. Nevertheless, the use of the authorisation should be checked according to the control plan, for instance at least once every three years (see recommendations in Annex XI of the guidelines).

However, when certain conditions for granting the authorisation are no longer met, it is possible to suspend (see section 2.VIII.1) or revoke (see section 2.VIII.2) the authorisation. Moreover, if the SP is only used for entering goods for a customs procedure with economic impact or end-use, it can no longer be used for such procedure if the authorisation for the CPEI or end-use is revoked, suspended or ends.

SECTION VIII - SUSPENSION/REVOCAATION

2.VIII.1. Suspension

An authorisation for the SDP or the LCP may be suspended under *Articles 253(d) to 253(f) CCIP* in the following cases:

- (a) Non-compliance with one or more of the conditions and criteria described in *Article 253c (1) CCIP* and/or
- (b) Acts giving rise to potential Court proceedings linked to an infringement of customs rules allegedly perpetrated by :
 - the authorisation holder,
 - the person in charge of the authorisation holder's company or exercising control over its management; or
 - the person responsible in the authorisation holder's company for customs matters.

Notwithstanding the requirements outlined above, an authorisation holder who is unable to meet the conditions and criteria of the authorisation held, may request the temporary suspension of that authorisation under *Article 253f CCIP*. The authorisation holder must specify to the authorising customs authorities the remedial action to take place and by what date it will be possible to meet the conditions and criteria again. The suspension may be lifted if the situation is rectified within the prescribed period. If the holder of the authorisation cannot meet the prescribed deadline and is deemed to be acting in good faith, the authorising customs authorities may consent to a reasonable extension. If the

infringement is deemed to be of negligible importance⁴, a warning letter may be considered appropriate.

In case of a combination of CPEI and LCP or SDP, even if the LCP or SDP is suspended the CPEI may still be applicable, but using standard declarations. In such case, for the treatment of the CPEI the economic operator should receive a higher risk score for not meeting the requirements necessary for other customs procedures.

If the authorisation for SP/SASP is granted on the basis of an AEO status already given, any subsequent suspension/revocation should be taken into account.

2.VIII.1.1. Suspension procedure

Where a suspension is considered under *Articles 253d to 253f CCIP* and notwithstanding the right to appeal under *Article 243 of the CC* and the economic operator's right to be heard, the following procedure applies:

- Firstly, an infringement or non-compliance is identified and the holder of the authorisation is notified of the findings by the authorising customs authorities; the holder of the authorisation is permitted 30 calendar days to regularise the position and/or express their views; the holder is also informed of the steps which will be taken if the findings remain valid and the situation has not been regularised;
- Secondly, if the customs authorities consider that the findings remain valid and the situation has not been regularised or the customs authorities are not satisfied, the authorisation holder will be informed that the authorisation is suspended for a period of 30 calendar days in accordance with *Article 253d (2) CCIP*.
- Thirdly, a re-assessment of the authorisation under *Article 253(8) CCIP* must take place, which will involve a closer examination of the detected area of non-compliance. As a result of the reassessment exercise, the authorisation holder may be required to apply some changes to the company's systems and may also be required to pay administrative penalties; the holder of the authorisation is permitted 30 calendar days to regularise the situation and/or express its view; the holder is also informed of the steps which will be taken if the findings remain valid and the situation is not regularised;

The authorisation holder may appeal the decision under the appeal system in place in the authorising MS.

2.VIII.1.2. Extension period:

If the authorisation holder can provide evidence that the conditions can be met if the suspension period is extended, the authorising customs authorities may consent to an extension of the suspension period by 30 calendar days;

⁴ Infringements are treated as negligible in accordance with national legislation of MS. For detailed information regarding categories of infringements, please see AEO guidelines, part 2.I.2.

2.VIII.1.3. End of suspension period:

If the authorisation holder makes the necessary changes, the suspension may be withdrawn by the authorising customs authorities.

If the authorisation holder fails to make the necessary changes, the process for revocation of the authorisation should start under *Article 253g CCIP*.

2.VIII.2. Revocation

Under *Article 253g CCIP*, an authorisation for the SDP or LCP may be revoked due to:

- (a) serious or repeated infringements⁵ relating to customs rules committed by:
 - the holder of the authorisation,
 - the person in charge of the holder's company or exercising control over its management; or
 - the person responsible in the holder's company for customs matters.
- (b) failure to regularise the situation following a suspension procedure under *Articles 253d(2) and 253f(1) CCIP*; and/or
- (c) at the request of the holder.

Similarly to the suspension process, it may be decided not to revoke the authorisation if any serious or repeated infringement of the customs rules is of negligible importance in relation to the number and size of the customs-related operations and does not create doubts concerning the good faith of the holder of the authorisation.

In case of a combination of CPEI and LCP or SDP, even if the LCP or SDP is revoked, the CPEI may still be used but using standard declarations. In such case, for the treatment of the CPEI the economic operator should receive a higher risk score for not meeting the requirements necessary for other customs procedures.

Where a revocation of an authorisation is being considered, the authorisation holder is notified of the findings by the authorising customs authorities, so that he can express his point of view (the right to be heard reflects a general principle of EU law. It also applies where the customs authorities intend to take a negative decision on the application). If this does not lead to a change in view, the authorisation holder will be notified that the authorisation is revoked and that he retains the right to appeal the decision.

If, following the revocation process, the authorisation holder wishes to use SP again, a new application will be required, which can only be successful if the situation which led to the revocation no longer exists.

⁵ Infringements are treated as serious and repeated in accordance with national legislation of MS. For detailed information regarding categories of infringements, please see AEO guidelines, part 2.I.2.

For example, if during an audit of a SASP authorisation, the authorising customs authorities discover that the economic operator is no longer financially solvent and cannot rectify the situation. In such circumstances, the authorisation must be revoked, as the economic operator can no longer meet one of the three core qualification criteria. (*Article 14j CCIP* refers).

SECTION IX - MANAGEMENT ⁶ OF THE SIMPLIFIED PROCEDURES

2.IX.1 General remarks

SDP or LCP can only be used by persons having valid authorisations to use them.

If the authorisation holder intends to place the goods under a CPEI, this person must verify that a valid authorisation to apply the appropriate CPEI exists.

Important areas in managing a procedure are:

- **Contact point/communication**

The contact points responsible for the monitoring of the simplified procedure, both in the customs office and in the authorised holder's company, shall be identified. They are responsible for the continuous exchange of information with each other.

- **Continuing monitoring**

The customs authorities should assess the available information on an ongoing basis and decide if checks are necessary. The customs authorities may also use a control plan for the follow-up of all the exchanges of information. The customs authorities update this control plan (see point 2.IV.3)

As simplifications are conditional on compliance with at least some of the AEO criteria, the dependency between the authorisation and the AEO status has to be ensured throughout the monitoring process.

The economic operator should monitor its own activities continuously and inform the customs authorities if necessary of relevant results (for instance, any positive improvement or negative findings) in order to build trust between the stakeholders.

The economic operator could have a documented plan for its own monitoring and follow-ups performed.

- **Economic operator risk management**

The customs authorities assess the risks on the basis of any information received from the economic operator and/or any new or updated information available to the customs authorities.

⁶ The management of the simplified procedures includes the supervision of the daily operations and the monitoring of the conditions and criteria of the authorisation.

- **Maintenance of the authorisation**

Pursuant to *Article 253(7) CCIP*, any change affecting the continuation or the content of the authorisation is notified to customs.

Examples include:

- a. legal status of the company,
- b. name and address of the company, contact point for customs authorities,
- c. location of place of business (add new location – subsidiaries, branches, warehouse, etc. – deletion of an old location),
- d. economic sector activity (new sector of activity or cessation of activity in a sector, change of place in the supply chain, e.g. exporter, importer, customs agent, carrier, etc.),
- e. address of the offices where customs documentation and the main accounts are kept etc.,
- f. changes concerning the accounting and logistical systems which are used
- g. changes in the IT systems.

These amendments may or may not have an impact on the authorisation. If the amendments have no substantive impact on the authorisation (like a phone number or e-mail address), only maintenance formalities are done. If they have a substantive impact, monitoring actions may be necessary.

- **Control planning**

See parts 2.IV.3 and 3.X.

- **File keeping**

The economic operator should file the records and all the supporting documents for the period of time regulated nationally if it goes beyond the time-limits laid down in *Article 16 CC* (at least three years).

The customs authorities should also keep on file all the reports of pre-audits, post-clearance audits and physical checks.

2.IX.2. SDP

Where the SDP is used, the goods intended to be placed under the import or export procedure in question are to be declared at the import or export customs office indicated in the authorisation to use the SDP.

The goods shall be presented to this customs office and the simplified declaration shall be lodged, accompanied by all documents which are required for customs controls, unless the customs authorities, in the case mentioned in *Article 77(2) CC* or in the cases mentioned *Article 255(2)* in conjunction with *Article 260(4) CCIP*, allow the declarant to lodge the declaration not accompanied by certain documents.

Holders of authorisations for the use of simplified customs procedures must always be in possession of the appropriate documentation at the required time as provided for in the relevant legal act. It must be retained by the authorisation holder for the specified

time period (as laid down in the authorisation) unless surrendered to the customs authorities. In some cases, P&R require that the licence /permit is available to the customs office where the goods arrive in or exit from the EU, when the goods pass through that place: it is for the authorisation holder to ensure that these conditions are met.

The goods may also be presented at a place other than the customs office. In this case, the place is designated or approved by the customs authorities (*Article 4 point 19 CC*).

The documents which need not accompany the simplified declaration in the cases of *Article 77 (2) CC, Articles 260 (4) and 255(2) CCIP*, shall be made available on the customs authorities' request

However for the documents without which the goods may not be released for free circulation, the criteria of *Article 255(2) CCIP* apply, e.g. import certificates.

The simplified declaration shall be lodged in the form of an electronic message, containing at least the particulars obligatory for the simplified declaration set out in Annex 30A table 7 CCIP. However, in accordance with the third paragraph of *Article 253a CCIP*, the customs authorities may allow the use of other forms of simplified declaration, if the customs authorities or the economic operator's IT systems are not in place⁷. The customs authorities should then ensure that the particulars contained in such declarations or notifications are sufficient for effective risk analysis.

The declarant shall furnish a supplementary declaration, which may be of a general, periodic or recapitulative nature (see *Article 76(2) CC*). The authorisation to use the SDP or another document supplementing this authorisation should refer to the customs office to which a supplementary declaration shall be furnished and provide a time-limit for furnishing it (*Article 262(1) CCIP*).

2.IX.2.1. SDP at import

Periodically, the customs office of import should check whether a required guarantee is in place and check if the amount of the guarantee is sufficient to use SDP. The verification of the existence of a guarantee could be automatically done by the system on a transaction basis. But it is up to the MS to decide how to monitor the amount of the guarantee.

The supplementary declaration shall contain all the particulars necessary for the assessment of import duties and other charges and for the entry in the accounts of the amount of import duties constituting the customs debt. Time-limits established for the furnishing of the supplementary declaration should ensure the timely entry into the accounts of the amount of import duties constituting the customs debt. However, these

⁷ As laid down in Article 253a CCIP: "However in cases where the customs authorities or the economic operators' computerised systems are not in place for the lodgement or receipt of simplified customs declarations or local clearance notifications using a data-processing technique, the customs authorities may accept other forms of declarations and notifications as prescribed by them, provided effective risk analysis is carried out."

time-limits cannot exceed the time-limits established in *Article 218(1) first subparagraph* and, where necessary, *Article 218(2) first subparagraph CC* for the entry in the accounts of the amount of duty.

2.IX.2.2. SDP at export

At export, the authorisation holder shall lodge the simplified declaration by electronic means with the customs office of export to fulfil the ECS requirements. Then, the customs office of export notifies the export operation to the customs office of exit.

If the export operation is carried out in the territory of more than one MS (e.g. the customs office of exit is not in the same MS as the customs office of export) the simplified export declaration should contain all the data which, by means of the ECS, are sent to be sent the customs office of exit.

Other simplifications can be granted at national level, in accordance with *Article 289 CCIP*.

The time-limits established for the furnishing of supplementary declaration may be extended where *Article 282* in conjunction with *Articles 255 to 259 CCIP* applies.

2.IX.3. LCP

Where the LCP is used, the goods intended to be placed under the authorised import or export procedure are to be declared at the place indicated in the authorisation to use the LCP. The goods are declared for the customs procedure concerned when the customs authorities have been duly notified and the goods are entered in the records of the authorisation holder.

The entry in the records shall indicate the date on which it is made and, at least, the particulars set out in Annex 30A, table 7 CCIP, except for the LCP for entry for the customs warehousing procedure. The entry in the stock records shall contain at least some of the particulars used to identify the goods commercially, including their quantity (*Article 273(1), second subparagraph CCIP*). The entry in the records has the same legal force as acceptance of the declaration by the customs authorities. The moment when the release of the goods is deemed to be granted is set out in the authorisation. There must always be the possibility for the customs authorities to inspect the goods at the premises before release is granted.

Regarding the release of the goods, different cases may be distinguished:

1) The authorisation holder has the obligation to notify customs of the arrival of the goods in the designated places or of his intention to release the goods for the customs procedure concerned (*Article 266(1) CCIP*). Then:

- a) either the holder has to wait for formal release of the goods by customs;
- b) or, after a time-frame set out in the authorisation, the goods are deemed to be released.

2) The authorisation holder has a notification waiver (*Article 266 (2) (b) CCIP*). In this case, the goods are deemed to be released as soon as they are entered in the economic operator's records.

2.IX.3.1. LCP at import

The records of the authorisation holder shall contain all the particulars necessary for the assessment of import duties and other charges and for the supervision of the customs procedure involved. All the supporting documents are filed and available on request.

When the authorisation holder discovers discrepancies between the declared and the actual nature and/or quantity of the goods entered in his records (i.e. after the release of the goods placed under the customs procedure in question), the holder should notify immediately the competent customs office.

Regarding the supplementary declaration, the same rules as for the SDP at import apply (*Article 218(1) second subparagraph CC*).

a) without notification waiver

In principle, the customs authorities require a notification before release of the goods, in order to be able to decide whether a control has to be performed or not. The customs authorities still have the opportunity to carry out risk analysis on the basis of the data notified and, where appropriate, request documents for customs controls.

The means and the procedures for the notification are prescribed nationally. The time-limit after which goods are deemed to be released shall be set out in the authorisation and should take into account the time needed to carry out the risk analysis and the time necessary for customs to carry out the control and to go to the premises where the goods are. Before its expiry, the customs authorities may request the presentation of the goods and/or documents for examination/verification purposes.

The notification should take the form of an electronic message⁸. The particulars contained in the notification should be sufficient for effective risk analysis, for the application of EU-wide and national prohibitions and restrictions and, where appropriate, for the supervision of the customs procedure under which the goods are to be placed.

b) with notification waiver

The notification waiver shall not be granted in the case of import of sensitive goods like P&R goods, unless the customs authorities have adequate guarantees that this does not lead to any risks. As an illustration of the exception: cases where the person concerned has

⁸ As laid down in Article 253a CCIP: "However in cases where the customs authorities or the economic operators' computerised systems are not in place for the lodgement or receipt of simplified customs declarations or local clearance notifications using a data-processing technique, the customs authorities may accept other forms of declarations and notifications as prescribed by them, provided effective risk analysis is carried out."

a global licence or regularly dispatches/receives goods of the same kind or cases in which goods may be placed on the market only if conformity with the EU technical regulations is indicated in accordance with the EU regulation concerning labelling (EC label).

As a further illustration, if the economic operator always imports one single sensitive product, notification waiver could be granted.

The notification obligation can be waived in accordance with *Article 266 (2)(b) CCIP*, under the condition that checks on the proper conduct of operations are not affected. Caution should be exercised in granting this simplification.

Before granting an authorisation with notification waiver, customs administrations should assess in writing, as part of the pre-audit report, what are the "special circumstances" that justify the waiver and what are the "reporting arrangements" that would permit customs authorities to exercise their duty to control the goods. The authorisation or additional documents shall lay down the specific rules and the obligations of the authorisation holder related to the notification waiver.

Article 266 (2) (b) CCIP refers to certain special circumstances linked with the nature and the rapid turnover of the goods. This notification waiver can be granted to an economic operator for all that operator's operations or just a part of them. For example, such notification waiver can be granted for economic operators dispatching or receiving goods transported by pipelines or wire, for suppliers of stores for ships and aircraft, or for producers of specific goods (e.g. fertilisers) from the same type of raw materials.

In order to perform controls before release, it is recommended that from time to time customs request a notification of intention to release for a certain period according to the control plan or in order to carry out random checks.

National procedures shall ensure the proper supervision of the LCP with notification waiver (i.e. the planning of the examination of import goods and the verification of documents required for customs controls). Random controls shall still be possible (see section 2.X of the guidelines).

The reconciliation of the particulars contained in supplementary declarations furnished by persons authorised to use the LCP with notification waiver with the particulars entered in the records of authorisation holders and contained in supporting documents available for customs controls should be carried out on the basis of risk analysis or on a random basis.

2.IX.3.2. LCP at export

a) without notification waiver

The customs office of export should be notified of the intention to have the goods placed under the customs procedure concerned in the form of:

- a simplified export declaration (*Article 285(1)* and Annex 30A CCIP); The simplified declaration shall be lodged in the form of an electronic message. The examination of goods and the verification of documents required for customs controls should be carried out on the basis of the results of risk analysis carried out, if possible, automatically, or;
- a complete export declaration (*Article 285(2) CCIP*); In such cases the examination of goods and the verification of documents required for customs controls should be carried

out on the basis of the results of risk analysis carried out automatically. A supplementary declaration need not be furnished, or;

- an electronic notification (*Article 285a (1) CCIP*); Such notification shall be sent within the time limits set out in *Article 285b CCIP*. In such cases the authorising customs office shall ensure that all necessary data is sent to the customs office of exit (*Article 285b (3) CCIP*).

b) with declaration/notification waiver

MS may, under the LCP, allow approved exporters in accordance with *Article 283 CCIP* to apply for a notification waiver, in cases where a waiver from the pre-departure declaration applies.

Such an authorisation may cover for example:

- delivery of ship and aircraft supplies (i.e. spare parts and foodstuffs for consumption or sale on board ships and aircraft);
- goods brought out of the customs territory directly to drilling or production platforms or to wind turbines operated by a person established in the EU; or
- gravel or rough timber extracted or cut close to the border and exported to Norway or Switzerland.

It should be noted that some of these goods (e.g. fuel in the standard tank of a truck) do not need be declared for export for customs purposes, as they are considered to be part of the means of transport. They may however have to be declared for statistical or tax reasons.

It is also possible to grant LCP with notification waiver for national operations (with no ECS messages) for which *Articles 289 and 592f CCIP* apply. It means that the whole export operation takes place in one MS (customs offices of export and exit are located in the same MS).

The granting of such an authorisation requires that the applicant fulfils the criteria for the LCP. The authorisation can be limited to cases of export of Community goods. MS can agree on a bilateral basis that the simplification is valid in cases of export via customs offices of exit of the other MS.

Such approved exporters must:

- enter each export immediately in their records; and
- report all exports to the customs office where they are established on a periodic basis of up to one month; these reports must be made electronically, where computerised systems are in place⁹.

⁹ As laid down in Article 253a CCIP: "However in cases where the customs authorities or the economic operators' computerised systems are not in place for the lodgement or receipt of simplified customs declarations or local clearance notifications using a data-processing technique, the customs authorities

Entry of the goods in the records shall be deemed to be the acceptance of the customs declaration and the release for export and exit.

2.IX.4. Exemptions from the supplementary declaration

Article 76 (2) of the CC lays down the obligation to lodge a supplementary customs declaration in both cases of SP.

Exemptions, specified in the CCIP, are described in the following sections. These sections also apply in the case of SASP.

2.IX.4.1. Release of goods for free circulation under the SDP (*Articles 260 to 267 CCIP*)

Under *Article 262(2) CCIP*, the authorisation holder may be exempted from lodging a supplementary customs declaration where:

- the simplified declaration for release for free circulation contains all the information required for release for free circulation and the calculation of duties and taxes and
- the value or the net mass of the goods specified in the simplified customs declaration is below the statistical threshold¹⁰, i.e. either the value of EUR 1.000 or a net mass 1.000 kg is not exceeded.

2.IX.4.2. Release of goods for free circulation under the LCP (*Articles 263 to 267 CCIP*)

No exemptions applicable.

2.IX.4.3. Release of goods under a customs procedure with economic impact

a) Entry for the customs warehousing procedure (Articles 268 to 274 CCIP)

Articles 269 and 273 CCIP provide that simplified procedures (SDP or LCP) for the customs warehousing procedure can be authorised for type A, C, D and E warehouses, under the conditions specified for these warehouses. No supplementary customs declaration is required in such cases (*Article 271 (2) and Article 274(2) CCIP*).

Nevertheless, when the goods are physically placed under a customs warehouse procedure, all relevant particulars of Annex 30A CCIP shall be entered in the stock records. Thus the authorising customs office has sufficient possibilities for control measures.

may accept other forms of declarations and notifications as prescribed by them, provided effective risk analysis is carried out."

¹⁰ The statistical threshold value is defined in Art. 3(4) of Regulation (EC) No. 471/2009 of the European Parliament and the Council of 6 May 2009 regarding Community statistics relating to external trade with non-member countries and in its implementing Regulation No. 113/2010 (Article 1 and point j) of Annex 1 (list of exemptions)).

b) Goods declared for outward processing (Article 277 CCIP)

In case of the SDP, *Articles 282 and 262 (2) CCIP* provide that the customs authorities may waive the requirement for a supplementary customs declaration for placing goods under outward processing.

In case of the LCP, in accordance with *Article 285 (2) CCIP*, the authorisation holder (approved exporter) is released from the obligation to lodge a supplementary customs declaration, if he submits a complete export declaration instead of a simplified customs declaration.

c) Entry for inward processing, for processing under customs control or for temporary importation in accordance with Article 276 CCIP

By applying *Articles 260 to 267 CCIP mutatis mutandis*, the customs authorities may waive the obligation of lodging a supplementary customs declaration only for SDP, if the conditions stipulated in *Art. 262 (2) CCIP* are fulfilled, where goods are released for inward processing, for processing under customs control or temporary importation.

d) Discharging a CPEI granted to the same person by placing under another CPEI (Articles 277a and 278 CCIP)

A supplementary customs declaration need not be required if the following two conditions are fulfilled:

- two or more authorisations concerning CPEI are granted to one authorisation holder, and
- the entry for the new procedure (following procedure) takes place using the LCP.

e) Customs declarations under the export procedure

See sections 2.IX.2 and 2.IX.3.

SECTION X - RISK ANALYSIS

Even if the simplified procedures may imply fewer or less control before release of the goods than the standard procedure, a minimum number of physical and documentary checks based on risk analysis or random controls has to be performed. There is a need to maintain an uncertainty factor, in order to detect imports or exports that do not respect the common trade policy/security aspects and to avoid underpayments of customs duties and other charges.

For instance, consignments declared under a simplified procedure but considered by the risk analysis as of high risk (e.g. because of an AM communication) should not be excluded from control only because they have been imported under simplified procedures.

The MS are encouraged to develop automated risk profiles for TOR, trade policy measures and to critically review controls for SP.

See Annex XI of the guidelines for recommendations on controls.

2.X.1. SDP

Upon receipt of the simplified declaration, the import or export customs office shall satisfy itself that the person lodging this declaration has a valid authorisation to use the SDP and that the simplified declaration and its particulars are in line with the requirements established in that authorisation. As the simplified declaration is to be lodged in the form of an electronic message, such controls should be carried out automatically, by means of customs declaration data processing systems.

Goods declared using the SDP may be examined and documents required may be verified, taking into account the results of risk analysis carried out. The nature and results of controls carried out should be recorded in accordance with *Article 247 CCIP*.

2.X.2. LCP

Customs officials can request documents for documentary checks or visit the place indicated in the authorisation to examine the goods if, according to the results of risk analysis carried out, it is necessary to verify documents and/or to perform a physical examination of the goods. The nature and results of any verification/examination carried out shall be recorded in accordance with *Article 247 CCIP*.

In order to perform risk analysis, MS are encouraged to develop electronic notification of entry in the records of the goods (as laid down in the second paragraph of Article 253a CCIPs).

In case of notification waiver, the customs authorities should still perform regular risk-based or random checks, or checks based on a planning established on the basis of a pre-audit and the risk profile of the authorisation holder.

The customs authorities can also ask for a notification of arrival for a certain period of time in order to be able to control the goods.

2.X.3. Specific controls of goods declared under customs procedure code 42

Customs procedure code 42 means that goods, which in the MS of importation are subject to a VAT exempt supply or transfer to another Member State, are simultaneously released for free circulation and home use.

Such situation presents specific fiscal risks, which may be less easily supervised by the customs authorities in cases where SP are used, in particular in LCP with notification waiver, where no information is submitted at the time of release.

Normal VAT audits take place at fixed periods and cover several years. However, there may always be targeted audits carried out either upon request from other MS or based upon internal risk analysis, whereby suspicions of fraud occur. In the latter case, it is very important to have the information on possible fraudulent operations available as soon as possible. Therefore, customs should ensure that the information related to imports using

customs procedure code 42 is passed on immediately to the fiscal authorities, so that this information is available for them for their fiscal risk analysis.

When it is provided at a later stage (after 1 month in the cases of SP) the conditions for the exemption can only be verified at that time and in that case the control can only take place 1 month later.

If the applicant intends to use customs procedure code 42, the customs authorities should pay special attention during the pre-audit to the availability of the VAT identification numbers of the importer and the client in the other MS (consignee) and the proof of the sale/transfer of the goods in the records of the supplier/importer at the time of release. The reliability of the applicant on this point has to be carefully checked. Furthermore, it should be verified that the goods will indeed leave the territory of the MS of importation for another MS and arrive in the MS concerned.

The customs authorities should also verify the VAT identification numbers during post-clearance checks on the supplementary declarations, either by automated means or manually.

SECTION XI - RECONCILIATION OF THE SIMPLIFIED DECLARATION AND THE SUPPLEMENTARY DECLARATION / POST-CLEARANCE CONTROLS

2.XI.1. Reconciliation of the simplified declaration and the supplementary declaration

2.XI.1.1. Background

It is important to reduce the risks within the LCP, the SDP and SASP, by having procedures in place to enable reconciliation between the simplified declarations and the relevant supplementary declarations. These control procedures will ensure that fiscal compliance and the integrity of customs debt data is maintained. The reconciliation should preferably be undertaken automatically.

2.XI.1.2. Automated reconciliation

Automated reconciliation is recommended whenever possible and any errors should be followed up. The automated reconciliation of the particulars contained in declarations should be carried out by means of customs declaration data processing systems.

MS customs administrations should develop and use an automated IT tool to reconcile the simplified declarations with the relevant supplementary declaration. The customs declaration registration number/MRN can be used for reconciliation. This electronic reconciliation should provide reasonable assurance on the completeness and accuracy of the supplementary declaration and that all goods have been properly declared.

2.XI.1.3. Manual reconciliation

Nevertheless, MS customs administrations can undertake the reconciliation of the simplified declaration and the supplementary declarations manually during post clearance / assurance activity. The reconciliation can be undertaken using the customs declaration registration number/MRN and box 40 data as a reference. Manual reconciliation shall provide reasonable assurance on the completeness of the supplementary declaration and that all goods imported have been properly declared.

2.XI.2. Post-clearance controls on the supplementary declaration and supporting documents

The authorising customs office or the import or export customs office to which a supplementary declaration must be furnished, should control the compliance with time limits established for the submission of the supplementary declaration. Such controls should be carried out automatically, by means of information systems used for the processing of customs declaration data.

If the reconciliation is made manually, this reconciliation exercise will be one main part of the post-clearance controls.

The correctness, authenticity and validity of the supporting documents can also be checked during post-clearance checks. In the case of SASP, as part of these checks, the authorising customs authorities can also use, if necessary, any information on results of controls received from the participating MS. Secured exchanges of information are recommended for this.

SECTION XII - POST-CLEARANCE AUDITS

2.XII.1. Definition

The legal basis covering the right to audit economic operators and third parties by customs authorities may generally be found in national customs or tax laws. In addition to these laws, EU legislation provides a legal basis for the application of audits. *Article 78 CC* provides for the possibility to check customs declarations after the release of the goods concerned, while *Articles 13 to 16 CC* serve as a legal basis for the undertaking of audits.

- Whereas **post-clearance controls** (see point 2.XI.2.) focus exclusively on the examination of declarations and supporting documents, as provided for in *Article 78 CC*, post-clearance audits are wider.

-**Post-clearance audit** involves an examination of the administration, organisation, internal procedures and/or internal systems of an economic operator. The examination of the internal systems should include an examination of the accounting records and a sample of transactions. The pre-audit and post-clearance audit processes have many similarities. The post-clearance audit process may highlight deficiencies in the practical operation of the SP authorisation which did not exist at the time of the pre-audit and/or that the holder no longer complies with the criteria.

- **Reassessment audit** is a specific post-clearance- audit which is explained under point 2.XII.4.

2.XII.2. Goal

Post-clearance audits shall be undertaken after the issue of the authorisation. Post-audits generally include a visit of the economic operator's premises. The purpose of the post-clearance audit is to ensure:

- Compliance with the terms of the authorisation granted to the operator concerned;
- Compliance with requirements of EU and national legislation in all areas which are subject to the work of customs.
- Correct and complete data in order to establish the amount of customs duties and charges due and compliance with non-tariff measures.

Regular and planned post-clearance audits should be carried out, based on sound and standardised audit methodology, taking into account e.g. the trader's business risks and time-barring risks.

2.XII.3. Post-clearance audit process

A post-clearance audit will basically run through the following phases:

- Planning and Selection phase

An audit plan is put in place, which can consist of sectors, types of industries or customs procedures that can be targeted for audit during the audit phase. The plan should cover a specific period, e.g. one semester or one year.

- Preparation Phase

This is undertaken once the economic operator has been selected. The objective of the preparation phase is to identify any matters of potential significance which call for a particular type of audit.

- Execution Phase

Once the auditor has determined the risks to be tested, it is commonly necessary to visit the premises of the economic operator. The scope of the audit will be based on risk analysis. Once the risk has been identified by the auditor, the objective is to test the risk against information held by the economic operator.

An important part in the general approach to the process is procedure testing. With these tests the reliability of the economic operator's information systems can be confirmed. Procedure testing includes direct testing of a sample of transactions and inspection of documents supporting transactions to gain evidence that internal controls have operated properly. These tests can be done during post-clearance audits as well as spread in time.

- Reporting and follow up phase

When the audit is complete, a report is prepared and systematically followed up. It should highlight matters of significance and conclusions reached by the auditor. It is important that the audit report indicates the sampling approach and documents checked, including

any cross-reference between these documents and those of a third party. Audit results should be fed back into the risk management system of the customs authorities.

The economic operator should be informed of the conclusions of any audit. The economic operator should be given the opportunity to comment on the conclusions of the report before it is finalised.

- Review Phase

An important point to remember is that the review phase is not the final phase of the audit, as audit is a continuous process. However the scope of the review may include examination of audit working papers and audit reports, evaluation of audit results and consultation with stakeholders. This will help to identify trends in categories of non-compliance to be considered for future audit programmes, and also to identify any deficiencies in procedures or areas for improvement in the organisation, management and performance of audits.

Risk analysis for post-clearance audits should take due account, as a risk factor, of the time-barring of the communication of the customs debt after three years. The number of transactions to be checked in each post-clearance audit should depend on the risks involved.

See part 5 of the AEO guidelines.

For an in-depth review of the individual phases of post-clearance audit, see Annexes XI and XII regarding the post-clearance audit methodology recommended by the ECA.

See the approach of one MS in Annex XIII, considered by the ECA as a good practice.

2.XII.4. Reassessment of the authorisation

In post-clearance audits, one specific case is the reassessment of the authorisation where there are:

- Major changes to EU legislation, or
- Reasonable indications that the relevant conditions and criteria are no longer met.

This reassessment of authorisations for SP/SASP follows the same rules as for the reassessment of AEO status. For further explanations, please see the AEO guidelines, part 5, section II "reassessment".

PART 3, SPECIFIC PROVISIONS FOR SASP

SECTION I - TRADITIONAL OWN RESOURCES, THE ADMINISTRATIVE ARRANGEMENT AND THE CONVENTION

An important issue to consider before participating in a SASP is the sharing between MS of the 25% of Traditional Own Resources (TOR - customs duties) that MS are allowed to retain by way of collection costs when duties are collected.

Under current legislation, there is no requirement for MS to share these collection costs. However, participation in a SASP requires cooperation and this needs to be considered when deciding on the share of collection costs between MS. A common basis for sharing the collection costs has been adopted. The result is an equal division between the authorising MS and the participating MS, within the framework of an AA or of a Convention (published in OJ 2009 No. C 92, 21.4.2009, p. 1).

The AA concerning the allocation, under SASP for release for free circulation, of the national collection costs, sets out the calculation of the amount of the collection costs to be transferred. Although it was a great step forward, not all the Member States have signed it.

Under the Union Customs Code, the concept of centralised clearance will make it necessary to create an EU-wide agreement on the division of collection costs.

The Convention on centralised customs clearance, concerning the allocation of national collection costs, has been signed by 27 Member States and will enter into force 90 days after the last signatory declares that it has completed all the internal procedures for adoption. In the meantime, however, any MS completing these internal procedures may declare that it will apply the Convention from an earlier date with Member States making the same declaration. The Convention will replace all existing bilateral agreements and the AA as well.

Both the AA and the Convention stipulate that the amount of the collection costs redistributed by the authorising MS to the participating MS shall be equal to 50% of the amount of the collection costs retained from goods physically imported into the participating MS. The authorising MS retains 100% of the collection costs if the goods are physically released for free circulation in the authorising MS. In addition to the amount, they state the time of transfer, the sharing of information (bank accounts, identification of the administration...) between the MS and contain provisions on dispute settlement.

Possible scenarios for the sharing of the collection costs between the authorising MS and the respective participating MS are set out in Annex I.

The authorising MS shall send a detailed advice (see format in Annex I) to the participating MS of the transfer of the collection costs.

The national office designated for the receipt of the summary advice should check the details in the document and notify the authorising MS of any discrepancies.

For further information, the texts are available on the website of DG Taxation and Customs Union:

http://ec.europa.eu/taxation_customs/customs/procedural_aspects/general/centralised_clearance/index_en.htm.

The list of the MS which have signed the AA and/or ratified the Convention is also available on this website.

SECTION II - APPLICATION PROCEDURE

3.II.1. Who can apply for a SASP

The same rules apply as for national authorisations for SP (see point 2.III.1 of the guidelines).

A group of companies cannot apply for a SASP, only a single entity who takes responsibility for representing the others (making declarations, providing a guarantee, keeping records, etc) and acts as a single contact point for the authorising administration.

When a single entity applies for a SASP, the name and address of the companies of the group which give local support to the holder of the authorisation (assisting in physical checks or in veterinary inspections, delivering goods to the customers, etc) in the different participating MS shall be inserted in box 12.

3.II.2. Where to apply

In accordance with *Article 253h (1) CCIP*, the same rules as for AEO status apply for the determination of the customs authorities. *For more detailed information, please see the AEO Guidelines, Part 3, Section I.*

Where the economic operator applies for both a SASP and a single authorisation for end-use or for a CPEI, the rules of *Article 292 (5) and (6)* or *Articles 500 and 501 CCIP* apply. This applies also in the case of an application for an integrated single authorisation. In practice, the applicant has to lodge an application form, as set out in Annex 67 CCIP, for the SASP and another one for the CPEI or end-use.

For instance, when an economic operator applies for a SASP and a single authorisation for the customs warehousing procedure, the application for SASP shall be lodged in the MS where for the application for customs warehousing has to be made.

3.II.3. Making an application for SASP

The rules are the same as those for national SP. The application is to be lodged in the authorising MS.

SECTION III - EXAMINATION OF THE APPLICATION AND PRE-AUDIT

Since more than one MS is involved, in addition to what is indicated in section 2.II, additional aspects regarding communication between the MS, are also to be considered before granting a SASP.

There is a need to exchange information between MS. The exchange of data should preferably be done electronically and take into account data protection (see 3.X and Annex VII).

The division of responsibility regarding pre-audit between and within the MS concerned must be established. It is necessary to establish a joint control plan to clarify the commitments for the parties involved (authorising MS and participating MS).

The places where the goods will be imported/exported and the holder of the goods in the participating MS have to be known. Participating MS always have checks to do before giving agreement to the SASP authorisation. Moreover, in certain circumstances, for instance to draft the control plan and define risk profiles, a joint audit can be carried out in the participating MS.

See Annexes IV, V and XI/XII, which apply also to the SASP issuing procedure.

SECTION IV - GUARANTEES

There are several differences between the guarantee that must be provided for a simplified procedure (see point 2.VI) and the guarantee for a SASP:

- more than one MS is involved in the calculation of the guarantee
- the guarantee needs to cover national taxes of all the MS involved in the authorisation.

The authorising authorities are responsible for calculating the amount of guarantee necessary to cover the customs debt and other charges. This guarantee covers both import duties and the various national taxes in each of the MS involved. But the issue concerns national taxes and not customs duties, for which the guarantee is the responsibility of the authorising MS. For national tax, each MS involved in a SASP must contribute to the calculation of the amount of guarantee, such as VAT and excise duties.

There is no formal rule that determines where the guarantee must be provided. In practice however two possibilities are used:

- (1) the guarantee for the entire customs and fiscal debt (both for import duties and the national taxes in all the MS involved) is established in the authorising MS;
- (2) the guarantee for national taxes in the participating MS is calculated by, and must be established in, the participating MS. In this case, the guarantee established in the authorising MS covers only the import duties and the national taxes of the authorising MS.

From experience to date, the second option is used more widely.

In the second case, the participating MS can ask for information on the existence and level of the guarantee at any time.

SECTION V - CONSULTATION PROCEDURE

The consultation procedure between MS is laid down in *Article 253j (1) CCIP*. When drafting a control plan, account is taken of the specific requirements of the participating MS (for instance regarding national legislation). Depending on risk analysis and the goods which may be placed under the customs procedure, special notification and procedural requirements for release in the participating Member State(s) have to be laid down in the Single Authorisation (in box 15 or in additional information). This means that, during the consultation procedure, the local office of the participating MS has to inform the authorising customs office about special requirements to be taken into consideration, both in the authorisation and in the control plan, due to the national legislation applicable when the goods are released.

SECTION VI - PROHIBITIONS AND RESTRICTIONS

In principle, the guidelines relating to national authorisations for SP apply (see point 2.V.3 of the guidelines).

Where other Government authorities or agencies are responsible for the implementation of measures relating to goods subject to P&R, it is essential that they are consulted before a SASP is granted. They should be continuously involved when the authorisation is evaluated, reviewed or amended.

To permit effective control of these goods, MS must ensure that the joint control plan clearly specifies the roles and responsibilities of the customs administrations involved in the SASP.

The authorisation must also clearly indicate the customs office to which the licences/permits are to be presented and list the goods (based on CN codes) to which the authorisation does or does not apply.

The joint control plan should clarify the role of the customs office of presentation and of the authorising customs office relating to the checks to be carried out on P&R goods. This includes at least:

- Specifying whether it is necessary to present the licence together with the simplified declaration or the notification or whether it is sufficient to present the documents together with the supplementary declaration.
- What checks must be carried out by the authorising customs office before the goods are released, and what checks may be carried out as post-clearance controls.
- Details of the information exchange between the customs office of presentation and the authorising customs office relating to checks at the time of presentation as well as to post-audit controls.

3.VI.1. In case of national P&R

In principle, one MS cannot be expected to enforce the national P&R of another MS. However, MS may agree to do so, provided that satisfactory controls can be set up.

Because of the different national P&R existing in the MS, it has to be decided in each case if the goods may be included in the SASP.

3.VI.2. In case of EU P&R

Goods subject to P&R may only be authorised under SASP if there is agreement between the MS involved that the control requirements of the relevant legislation can be fulfilled. Because of the range of EU P&R, the decision can only be made on a case by case basis.

Excluded (prohibited) goods

Where, it is not possible to fulfil the relevant control requirements, the goods must be excluded from the SASP.

It has to be clearly indicated in the SASP which goods are excluded from the procedure in each of the MS involved.

3.VI.3. Dealing with breaches or infringements of P&R

Where any P&R goods are included in the authorisation, the control plan must clearly establish the MS responsibilities for dealing with any breaches or infringements, taking into account the EU and national legislation on P&R.

In normal circumstances, the participating MS should first decide whether any prosecution or penalty is appropriate, given the nature of the breach, and the authorising office should provide all assistance necessary (e.g. obtaining copies of papers, witness statements from control staff).

Any administrative action to be taken by the authorising office, e.g. amending, suspending or revoking the authorisation (for example to exclude the goods from the authorisation), or applying an administrative or fiscal penalty, should be agreed with the participating MS.

SECTION VII - REQUIREMENTS FOR IMPORT VAT

3.VII.1. Background

According to the VAT Directive (2006/112/EC), the import VAT debt is incurred when goods are released for free circulation. The place of importation is the MS within the territory of which the goods are located when they are released for free circulation.

Annexes II and III give an overview of the relevant legislation and its implementation in the MS.

3.VII.2. Requirements for import VAT

The economic operator should make customs declarations in the authorising MS. These will include declarations for goods physically released for free circulation in the participating MS.

The economic operator will be required to submit, in addition to lodging the supplementary customs declaration for payment of customs duties with the authorising customs authorities, VAT data in each participating MS. The format and the timescale for submission of the VAT data on imported goods will depend on the requirements of the MS where the goods are physically released for free circulation. In particular, participating MS may require such data to be submitted for each import operation or on a monthly basis. MS may also require such data to be submitted in a form of a supplementary customs declaration.

A supplementary customs declaration for import VAT could contain at least the following information per VAT rate:

1. the taxable value of goods released for free circulation in the participating MS (or separately the elements comprising the taxable value:
 - a. the customs value of goods released for free circulation in the participating MS;
 - b. the amount of import duties paid on those goods;
 - c. additional costs to be considered for the calculation of the import VAT);
2. the applicable VAT rate;
3. the calculated amount of import VAT.

Detailed information on each import operation to verify the import VAT data shall be available in the authorising MS. The authorising MS shall send information regarding the supplementary customs declarations to the participating MS on its request for import VAT control purposes.

Subject to agreement between MS, and where feasible, it may be necessary for the participating MS to send import VAT data to the authorising MS.

Formalities concerning the exchange of information on import VAT should be agreed between participating MS; this could be integral part of the joint control plan (see section 3.X).

The participating MS' requirements for submission of the import VAT data should be included either within the authorisation or as an annex to the authorisation.

SECTION VIII - EXCISE DUTIES

From a practical point of view, it may be difficult to include excise goods under SASP authorisations due to the special requirements. It is up to the MS involved to arrange the necessary procedure on the basis of Directive 2008/118/EC, bearing in mind that excise duties have to be paid in the MS of consumption.

3.VIII.1. Guarantees

The competent authorities of the MS of dispatch shall, under the conditions fixed by them, require that the risks inherent in the Excise Movement Procedure shall be covered by a compulsory guarantee.

The persons who may provide a guarantee are part of the guarantee rules which shall be laid down by the MS. The guarantee shall be valid throughout the EU.

Payment of excise duties

Where an excise suspension arrangement is not applied, the excise duty is chargeable at the time of release of the goods for free circulation.

The economic operator may be required to make, in addition to lodging the supplementary customs declaration with the authorising customs authorities for payment of customs duties, excise declarations in the participating MS.

The format and timescale for submission of the excise declaration will depend on the requirements of the MS where the goods are physically released for free circulation.

In case of a SASP, a separate authorisation may be required by the participating MS for submission of the excise declaration.

SECTION IX - STATISTICS

3.IX.1. Background

Trade statistics are required for national as well as for EU purposes. The legal basis for statistics of the EU relating to trade in goods with non-member countries (Extrastat) is Council Regulation (EU) No 471/2009, Regulation (EU) No 92/2010 and Commission Regulation (EU) No 113/2010.

Extrastat (statistics on the import and export of goods into or out of the EU) is based - apart from certain specific movements - on the collection of data from the customs declaration (*Article 6* of Regulation (EC) No 471/2009). The data is collected when the customs declaration is accepted by the customs authorities. Under EU provisions, an economic operator normally does not have a direct statistical reporting obligation to a statistical administration.

It is the responsibility of the administration of each MS to provide the Commission (EUROSTAT) with external trade statistics according to a harmonised EU concept.

Annexe III gives an overview of the relevant legislation and its implementation in the MS.

3.IX.2. Requirements for statistics

The provision of statistics must be taken into account when granting a SASP authorisation.

For EU statistics, the following requirements are mandatory:

- The authorising MS has to provide Eurostat with statistics for goods which are physically released into free circulation, or for export, or for processing in the participating MS. The supplementary customs declaration shall be taken as the data source.
- The data : 'Member State of final destination', for goods entering the EU, and the 'Member State of actual export', for goods leaving the EU, have to be provided to Eurostat in addition to the general-mandatory statistical data set, although these data elements are not mandatory in all MS. It is strongly recommended that an economic operator benefiting

from a SASP indicates this information either in box 17a (for import) or in box 15a (for export) of the supplementary customs declaration.

For instance, if the MS of final destination is different from the MS of importation, procedure 42 applies.

*For compiling **national statistics** the following requirements are recommended:*

- Either the economic operator is obliged to make statistical declarations in the participating MS directly to the competent National Statistical Authorities (NSA)
- or the customs administration in the authorising MS is obliged to transmit the statistical information to the competent administration (Customs or NSA) of the participating MS.

The format, content (data elements) and timescale for submission of the statistical declaration will depend on the requirements of the participating MS (e.g. monthly declaration submitted in electronic form, on CD-Rom or on paper, according to national data compilation needs in the participating MS).

The obligations of the economic operator and/or the customs administration in the authorising MS should be included either within the authorisation itself or as an annex to the authorisation.

SECTION X - JOINT CONTROL PLAN/EXCHANGE OF INFORMATION ON CONTROLS

A joint control plan on the basis of these guidelines (see Annexes VII and VIII) has to be drawn up for each Single Authorisation. The control plan should specify the minimum level of controls (see Annex IX). In exceptional circumstances, the local customs offices of the participating MS may carry out further controls on request of the authorising customs office or on their own initiative, with the results being reported to the authorising office (using the form set out in Annex X). E-mail exchanges can be recommended as long as they are properly secured (see Annex VII, point 4 for data protection).

In every case the local customs offices of the participating MS that carried out the controls has to report the results to the authorising customs office. The transmission of this information has to be regulated in the control plan.

The division of responsibilities is set out in Annex VI.

SECTION XI - ISSUING PROCEDURE

After having verified, by carrying out a pre-audit (see annex V), that the applicant qualifies for the authorisation, the authorising customs authorities will, in accordance with Article 253j (1) CCIP, send the application, the first draft of the authorisation, if necessary with the appropriate translations, and all necessary information for granting the authorisation, to the other customs authorities concerned (central office(s) in the participating MS in accordance with Article 253i (2) CCIP) via e-mail (see point 3.X and Annex VII, point 4

for data protection), or make this information available using the communication system referred to in Article 253m CCIP, once it is available, in which case an acknowledgement of receipt will not be necessary.

3.XI.1. Time-limits

The competent customs authorities shall, in accordance with Article 253j (1) and (2) CCIP, make available the above-mentioned information within the following time-limits, running from the date on which the competent customs authorities receive all the necessary information to accept the application:

- 30 calendar days, if the applicant has been previously granted the simplified declaration or the local clearance procedure, or an AEO certificate referred to in point (a) or (c) of Article 14a (1) ;
- 90 calendar days in the other cases;

If necessary, these time limits can be extended by 30 days and the applicant will be informed, by the authorising customs authorities, of the reasons for this extension.

The customs authorities of the MS concerned shall, in accordance with Article 253k (2) CCIP, notify via e-mail any objections or shall communicate their decision(s) to the issuing customs authorities within 30 calendar days of the date on which the draft authorisation was received; if additional time is needed to make a decision, the authorising office must be informed within the same time-limit of 30 calendar days. Where objections are raised within that period and no agreement is reached, the application will be rejected to the extent to which objections were raised. Before rejection of the application, the applicant must, in accordance with Article 253k (3) CCIP, be allowed a period of 30 calendar days to express a point of view.

An authorisation can only be granted if all the competent authorities concerned have given their explicit consent in writing or electronically or have not reacted within the deadline.

The competent customs authorities shall, in accordance with Article 253l (2) CCIP, grant the authorisation within 30 calendar days after receiving consent or no reasoned objections from the customs authorities of the MS involved, using the form as set out in Annex 67 CCIP. The authorising customs authorities must send a copy of the agreed authorisation to all the competent authorities concerned.

As SP/SASP deadlines are different from CPEI deadlines, in the case of integrated authorisations, the CPEI may be granted before the simplified procedure. CPEI can for instance be used with standard customs declarations.

3.XI.2 Period of validity

The validity of a SASP is open-ended. Nevertheless, the SASP should be checked according to the joint control plan, for instance once every three years (see Annex XI).

SECTION XII - MANAGEMENT OF THE SASP

An important aspect of SASP is the division of responsibilities for the supervision of the authorisation by the customs authorities. The primary responsibility lies with the authorising customs office in the authorising MS, both in connection with granting the authorisation and in managing it thereafter. The authorising office has to ensure that the legal requirements are fulfilled, and is responsible for carrying out pre-audits (see general provisions for pre-audit and the standard check-list in Annexes IV and V), if necessary, before granting an authorisation. It is also responsible for carrying out risk analysis and developing a control plan to identify and address any risks after the authorisation has been granted.

The following sections provide guidelines on best practices for the management of import and export SASP under the SDP and the LCP.

3.XII.1 SASP with Simplified Declaration Procedure

3.XII.1.1. SASP with SDP at import

a) Arrival and presentation of goods

Goods arrive in the participating MS and must be presented and made available to customs for control before release.

b) Lodgement of the simplified declaration

Under a SASP, there are two possibilities:

-The first possibility is that the simplified declaration is lodged at the customs office responsible for the place where the authorisation holder is established, which is the place where the main accounts of the company are accessible and where part of the operations is carried out.

In this case, the relevant information should be communicated either by the authorising MS or by the economic operator to the customs authorities of the participating MS, to enable them to undertake any national controls or to effect release of the goods to a customs procedure. E-mail exchanges may be used (see Annex VII for data protection).

- The second possibility is that the simplified declaration is lodged at the customs office responsible for the place where the goods are located.

The need for national controls should be identified during the consultation process and be included in the joint control plan. There may be a requirement to examine the goods before

release. The need to examine should be based on risk analysis and be included in the control plan.

c) Release of the goods and lodgement of the supplementary declaration

During the consultation stage, there should be an agreement between the authorising customs authorities and the participating customs authorities on the mechanism for the release of goods physically imported into the participating MS.

Under normal circumstances, when the simplified declaration is lodged with the authorising customs authorities, goods should not be released until the details of the simplified declaration have been communicated to the participating MS. E-mail exchanges may be used (see section 3.X and Annex VII for data protection).

However, in exceptional circumstances, it may be possible to release the goods on presentation at the office responsible for where the goods are located without the exchange of simplified declaration information. This simplification would depend on agreement between the MS involved in the SASP, the type of goods and requirements for national or mandatory controls.

After the goods have been released, the economic operator lodges a supplementary declaration in the authorising MS. The criteria and timescale for the submission of the supplementary declaration depends on national requirements; however it must be lodged no later than on the 15th day of the month following the end of the time limit for the lodgement of the supplementary declaration.

d) Payment of customs duties and sharing of collection costs

The authorising customs authorities check that the correct customs duties have been paid by the economic operator. If an underpayment is detected, the authorising MS should take action to recover this debt and should also inform the participating MS, as this could have an impact on the import VAT payable. The authorising MS also calculates the shared amount of the collection costs and sends the information and payment to the participating MS. Secured exchanges of electronic messages are recommended. E-mail exchanges may be used (see Annex VII for data protection).

3.XII.1.2. SASP with SDP at Export

a) Arrival of goods

The simplified declaration procedure for export begins when goods arrive at the customs office responsible for the place where the exporter is established or where the goods are packed or loaded for export.

b) Lodgement of the simplified declaration

Under a SASP arrangement, there are two possibilities.

The first possibility is that the simplified declaration is lodged at the customs office responsible for the place where the main accounts of the company are accessible and where part of the operations is carried out.

In this case, the relevant information should be communicated either by the authorising MS or by the economic operator to the customs authorities of the participating MS to enable them to undertake any national controls or to affect the release of the goods. It may be used e-mail exchanges (see Annex VII regarding data protection).

The second possibility is that the simplified declaration is lodged at the customs office responsible for where the goods are located.

The need for national controls should be identified during the consultation process and be included in the joint control plan. There may be a requirement to examine the goods before release. The need to examine should be based on risk analysis and be included in the control plan.

c) Release of goods and lodgement of the supplementary declaration

During the consultation stage, there should be an agreement between the authorising customs authorities and the participating customs authorities on the mechanism for the release of goods physically exported from the participating MS.

Under normal circumstances, when the simplified declaration is lodged with the authorising customs authorities, goods should not be released until the particulars of the simplified declaration have been communicated to the participating MS. However, in exceptional circumstances, it may be possible to release the goods on presentation at the office responsible for where the goods are located without the exchange of simplified declaration information. This simplification would depend on agreement between the MS involved in the SASP, the type of goods and requirements for national or mandatory controls.

After the goods have been released, the economic operator lodges a supplementary declaration in the authorising MS. The criteria and timescale for the submission of the supplementary declaration depends on EU and national requirements.

3.XII.2. SASP with Local Clearance Procedure

3.XII.2.1. SASP with LCP at Import

a) Arrival of the goods

Goods arrive or they will be discharged from temporary storage or a previous customs procedure (e.g. customs warehouse procedure) at the authorised location in the participating or in the authorising MS (goods can arrive in either - see models in Annex I).

The economic operator enters the goods for the customs procedure concerned in his commercial records, which sets the date of the incurrence of the customs and fiscal debt.

It is not necessary for the economic operator to keep (main) accounts in every MS involved in the SASP arrangement, but records have to be accessible on request to the customs authorities of the participating MS.

Once the import has been recorded, there are two possibilities where the goods arrive in the participating MS:

- either the economic operator may need to notify the customs office of the participating MS that the goods have arrived at the authorised location, have been entered into the records and are ready for discharge. The form of notification required depends on the requirement of the participating MS.
- or the goods are released through central entry in the records (notification waiver in certain special circumstances)

b) Release of the goods

- Release of the goods by the customs office of the participating MS on receipt of a notification

The economic operator sends the notification (in this case, the form of notification depends on the requirements of the participating MS) to the local customs office responsible for the place where the goods are located. The local customs office decide(s) whether the goods can be released immediately or if controls have to be carried out¹¹. If possible, the local customs office should inform the authorising office in advance about planned controls. The customs office in the participating MS may also inform the authorising office about controls recently required with regard to national legislation not yet included in the control plan.

If new controls have to be performed due to national legislation, the control plan should be updated as soon as possible.

- Release through central entry of data in the records

A notification of entry in the records should still be sent to the customs office of the authorising MS, unless a notification waiver is granted.

¹¹ For instance when, on the basis of the notification already received, a participating MS wishes to carry out checks on the level of cadmium in toys, it informs the authorising MS about this. In this specific case, the goods may only be released after (individual) approval of the local customs office. The time-limit when the goods may be considered released for free circulation will be laid down in the authorisation.

Nevertheless, under exceptional circumstances (see point 3.VIII.2.1 of the guidelines), the notification obligation can be waived in accordance with Article 266 (2) (b) CCIP, on the condition that checks on the proper conduct of operations are not affected. The authorisation shall lay down the specific rules and the obligations of the authorisation holder related to the notification waiver.

In general, the goods are released immediately after the required data has been entered in the records and, in principle, no notification has to be sent to the customs office of the participating MS. However, the authorising office or the local office may decide, in certain cases, that the economic operator has to send notifications for a specific period - as arranged in the joint control plan - with regard to specific types of goods- and request the local customs office (of the participating MS) to carry out controls (inspections). In the latter case, the local customs office also can release the goods, if this is arranged in the joint control plan.

c) Lodgement of the supplementary declaration

Once the goods have been released, the economic operator lodges a supplementary declaration in the authorising MS. The criteria and timescale for the submission of the supplementary declaration depend on national requirements; however it must be lodged no later than the 15th day of the following month.

d) Payment of customs duty and sharing of collection costs (see point 3.XII.1.1.d).

Secured exchanges of electronic messages are recommended. E-mail exchanges may be used (see Annex VII for data protection).

3.XII.2.2. SASP with LCP at export

a) Arrival of goods

The local clearance procedure for export starts when goods are packed or loaded for export shipment at the authorised location in the participating or authorising MS. Before the goods can be released, the economic operator needs to enter them in his commercial records.

b) Release of the goods

Once the export has been recorded, there are different possibilities: either the economic operator submits a notification to the customs office in the participating MS or in the authorising MS that the goods have been entered in the records. Instead of the notification, the declarant can lodge a simplified or a full declaration. In case of a full export declaration, there is no need for a supplementary declaration.

- Release with notification or lodging a declaration

If the economic operator notifies the customs office of the authorising MS, the information may also be transmitted to the participating MS either by the authorising MS or the economic operator. This must be done before the goods can be released. The form of the notification depends on the requirements of the participating MS. The electronic notification must contain the particulars set out in Annex 30A CCIP.

This gives the customs administration in the participating MS the possibility to undertake risk analysis and controls based on the information contained in the notification. If necessary, the customs authorities of the participating MS may examine the goods. The goods are then released by the customs authorities of the participating MS, who should communicate the examination to the authorising customs authorities. Secured exchanges of electronic messages are recommended.

MS may, in accordance with Article 285a (1a) CCIP, allow approved exporters to apply for LCP in cases where a waiver from the pre-departure declaration applies. See point 2.IX.3.2 (b).

For a certain period of time, the local customs office of the participating MS may suspend the automated release of the goods. In this case the economic operator has to submit to the authorising customs office all relevant data/information in order to carry out necessary controls. Details have to be set out in the authorisation.

- Release by submission of a simplified/complete declaration

The declarant can lodge a simplified or complete declaration, which must contain the particulars set out, respectively, in Annex 30A or 37 CCIP. The goods may be released immediately without notification to the customs office in the participating MS.

c) Lodgement of the supplementary declaration

After the goods have been released, the economic operator lodges the supplementary declaration in the authorising MS, except where a complete declaration has been lodged. The criteria and timescale for the submission of the supplementary declaration depend on national requirements.

SECTION XIII - POST-CLEARANCE AUDITS

Part 2, section XII applies *mutatis mutandis* in case of SASP.

The audit has to be based on the joint control plan established between the authorising MS and the participating MS. Customs records are to be made available to the authorising MS.

The participating MS should report any irregularities, infringements and other relevant information concerning the economic operator to the authorising customs authorities. Also all relevant information obtained in the authorising MS should be shared with the participating customs authorities.

See Annex X for the exchange of information between MS and Annex XI for recommendations of the ECA.

SECTION XIV - IRREGULARITIES

3.XIV.1. Background

SASP enable an economic operator to make customs declarations and, where appropriate, pay the customs duties, in the authorising MS, even though the movement of goods may take place in another MS.

However, where an irregularity is discovered in connection with an import or export, careful consideration must be given as to which MS is competent to deal with the irregularity (Article 215 CC). The following information provides guidelines for different scenarios.

3.XIV.2. Types of irregularity (examples)

3.XIV.2.1. Irregularities relating to the authorisation (Art. 204 CC)

The MS competent to grant the authorisation must deal with the irregularity (Art. 8 or 9 CC).

The MS where the provisions in the authorisation are applied must deal with irregularities due to non-conformity with those provisions (e.g. bookkeeping, conditions of storage, processing of goods).

3.XIV.2.2. Irregularities relating to declarations for placing under or discharge from a procedure (except irregularities mentioned in point 3.XIV.2.4) (Art. 201 CC)

The MS where the declaration is lodged must deal with the irregularity according to the legislation in force in that MS.

3.XIV.2.3. Irregularities which occurred when goods are transferred between storage locations (Art. 203 CC)

The legislation in force in the MS must be applied where, according to the records of the SASP holder or other documents, the goods were dealt with improperly.

3.XIV.2.4. Irregularities relating to the nature or the quantity of the goods being stored (Art 203 CC)

Irregular removal or substitution of goods must be dealt with according to the legislation in force in the MS where the irregularity occurred.

3.XIV.2.5. Irregularities which occur when goods under the arrangement are declared for free circulation (Art. 201 CC)

Irregularities (material errors) relating to the customs declaration (e.g. which do not correspond to the company records) must be dealt with according to the legislation in force in the MS which granted the authorisation and in which the customs declaration was lodged.

3.XIV.2.6. Irregularities which occur when prohibited/restricted goods are smuggled or goods are unlawfully introduced into the EU (Art. 202 CC)

Where prohibited or restricted goods are involved, or a customs debt is incurred under Article 202 CC, the MS where the unlawful introduction occurred or is deemed to have occurred, should take responsibility for any investigations or criminal proceedings. In these cases any disputes should be addressed to that MS and its appeals procedure is to be applied.

3.XIV.2.7. Infringement action, either criminal or civil (administrative penalties), does not necessarily follow the above rules. Such action should always be in accordance with the provisions in force, i.e. national provisions.

- For all irregularities covered under 3.XIV.2.1. to 3.XIV.2.4, a copy of the corrected declaration or a report about the irregularity must be sent to the authorising office.

In serious cases the authorisation may be suspended or revoked.

The internal responsibilities for customs responsibilities within a group of companies must be laid down by arrangement between the members of the group. This division of responsibility must be made known to the authorising customs authorities.

In principle, the authorisation holder is responsible and the others are only responsible if some of the cases mentioned in Articles 202 to 204 CC apply.

SECTION XV - DISPUTES AND APPEALS

3.XV.1. Disputes between the authorities involved

For dispute resolution, it is recommended to adopt the solution contained in the Administrative Arrangement for sharing the collection costs:

“Dispute Resolution:

Any dispute arising between the Participants in relation to the implementation or operation of this Arrangement or any authorisation subject to its operation will be resolved by negotiation, as much as possible. The Participant Member States may choose a mediator to solve the dispute”.

This clause allows the customs administrations involved to resolve any issues or problems with the operation, etc. of a SASP, through discussion and consensus. The Commission services are available for any mediation requested.

3.XV.2. Disputes between holders of SASP; the right of appeal

Although no formal dispute resolution procedures are included in SASP, it is assumed that the holder of the SASP will raise any disputes with the authorising customs administration.

It is the responsibility of the authorising customs administration to resolve the dispute. Articles 244 CC establishes the right of appeal. Decisions regarding the operation of a SASP are normally made by the authorising customs administration. In such cases the appeal system of the authorising MS is applied.

3.XV.3. Reduction in levels of dispute

The risk of potential disputes in connection with a SASP, both between administrations or between holders and customs, can be greatly reduced if issues are identified and solved before granting the authorisation.

The importance of conducting a thorough pre-audit and consultation procedure should be emphasized.

While preparing for the implementation of a SASP, and prior to granting the authorisation, the authorising customs administration should conduct an extensive review of the economic operator's customs procedures, processes, computer systems as well as accounting practices and reports and any binding information. This check should identify all potential issues of dispute and allow all the parties involved to agree on solutions in advance of commencing the operation of the SASP.

PART 4, CONCLUSION

Regulation (EC) No. 1192/2008 of 17 November 2008 has resulted in good progress in the interests of both economic operators and the customs authorities in the EU. For the trade, SASP offer the chance to centralise and integrate accounting, logistics and distribution functions, with consequent savings in administrative and transaction costs.

A European helpdesk, like that for AEOs, could be envisaged also for SP/SASP issues. The Commission will consider this possibility.

Regulation No. 1192/2008 is a first step in the direction of its successor, centralised clearance, which is laid down by the Union Customs Code. When the current obstacles in the areas of VAT, statistics and prohibitions and restrictions are removed, this will, as provided for in the Lisbon Agenda, lead to greater competitiveness and faster growth in the EU.

PART 5, ANNEXES

ANNEX I
ADVICE OF THE COLLECTION COSTS AND POSSIBLE SCENARIOS FOR
THE SHARING OF COLLECTION COSTS

Advice of shared Traditional own resources for month

- ...

Company		Date of accounting in the records	Import duty	Repayment	Import duty	Total	Collection costs	Payable at the latest
Name	Authorisation ID		Amount X	File no	Amount Y	Amount X - Y	50% (of 25%)	
Total			0,00		0,00	0,00	0,00	

Authorising Member State

From: *Customs Authorities address competent expert e-mail: Fax:*

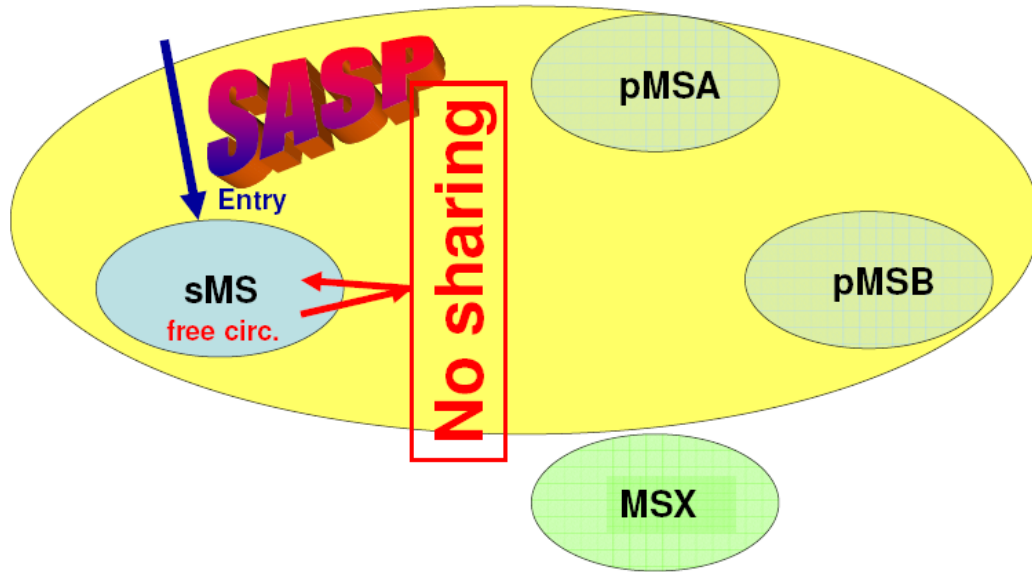
Assisting Member State

To: *Customs Authorities address competent expert e-mail:*

Bank account:
 BIC:
 IBAN:

Possible scenarios for the sharing of the collection costs

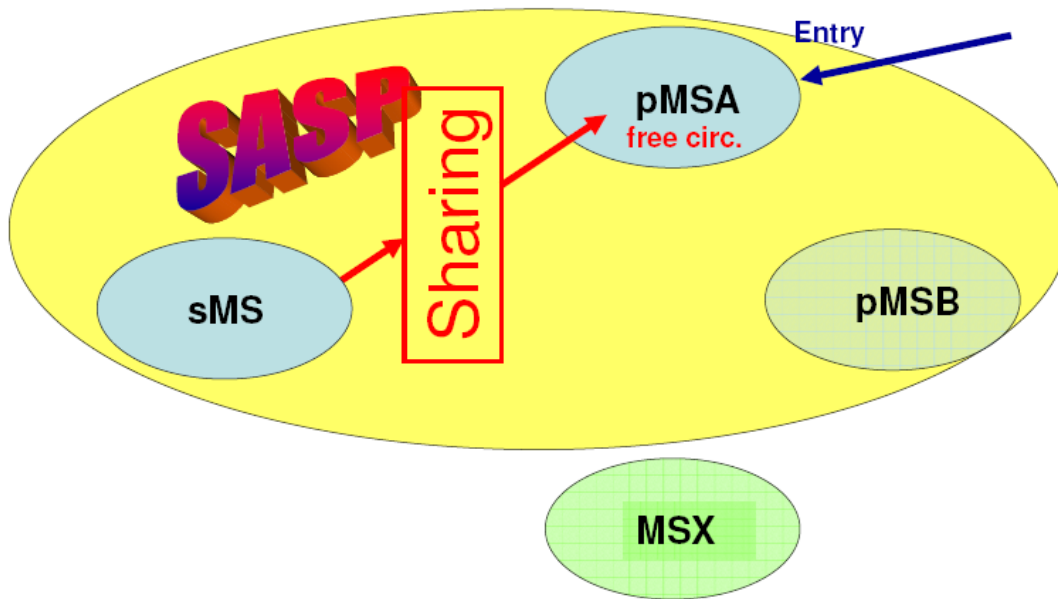
Entry and release of the goods in the authorising MS (sMS)



The goods enter the EU in the authorising Member State (sMS) and are released for free circulation in that MS.

As the release of the goods for free circulation takes place in the authorising MS, there is no need to share the collection costs with any participating MS (pMS*).

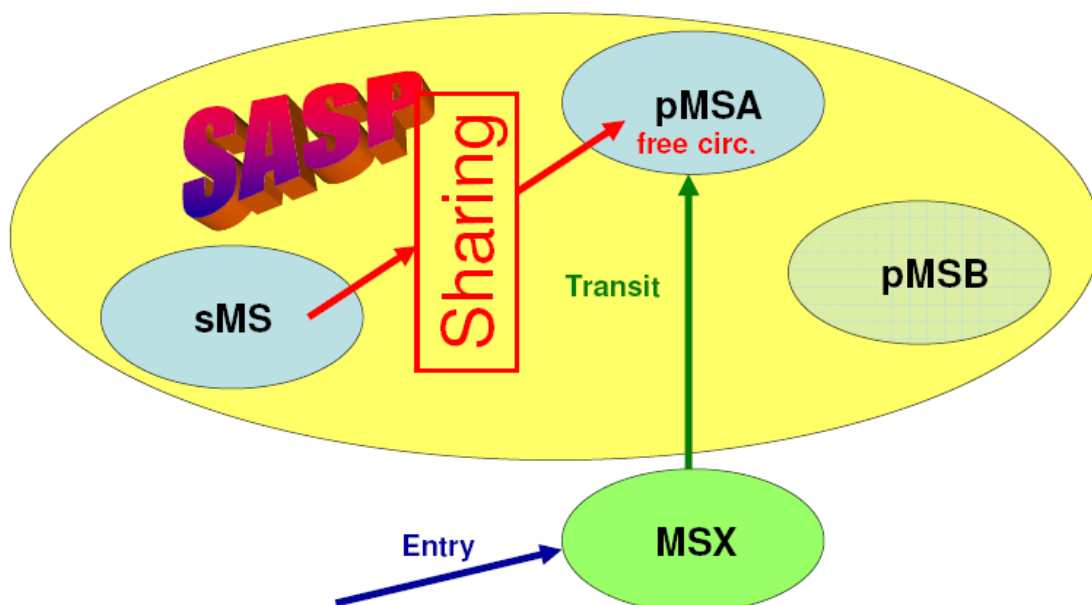
Entry and release of the goods in a pMS



The goods enter the EU in participating MS A (pMSA) and are released for free circulation in that pMS.

As the release of the goods for free circulation takes place in pMSA, the collection costs are to be shared between the sMS and (pMSA).

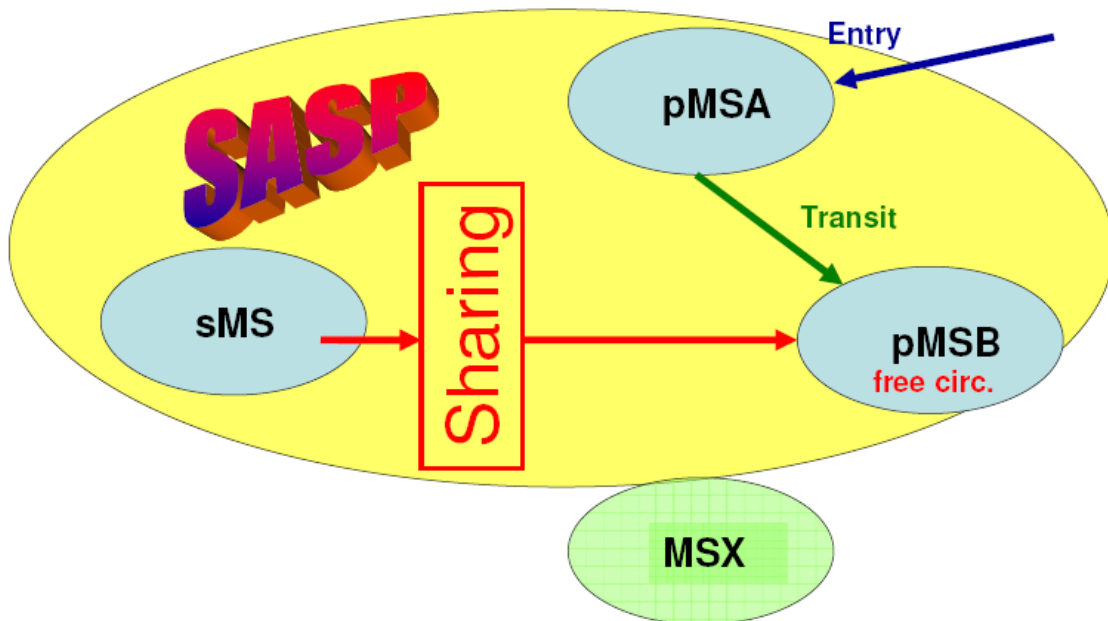
Entry of the goods in a non-participating MS -> Transit -> Release of the goods in a participating MS



The goods enter the EU in a non participating MS X (MSX). Using the transit procedure, the goods are dispatched to the participating MS A (pMSA) where they are released for free circulation.

As the release of the goods for free circulation takes place in pMSA, the collection costs are to be shared between the authorising MS (sMS) and pMSA.

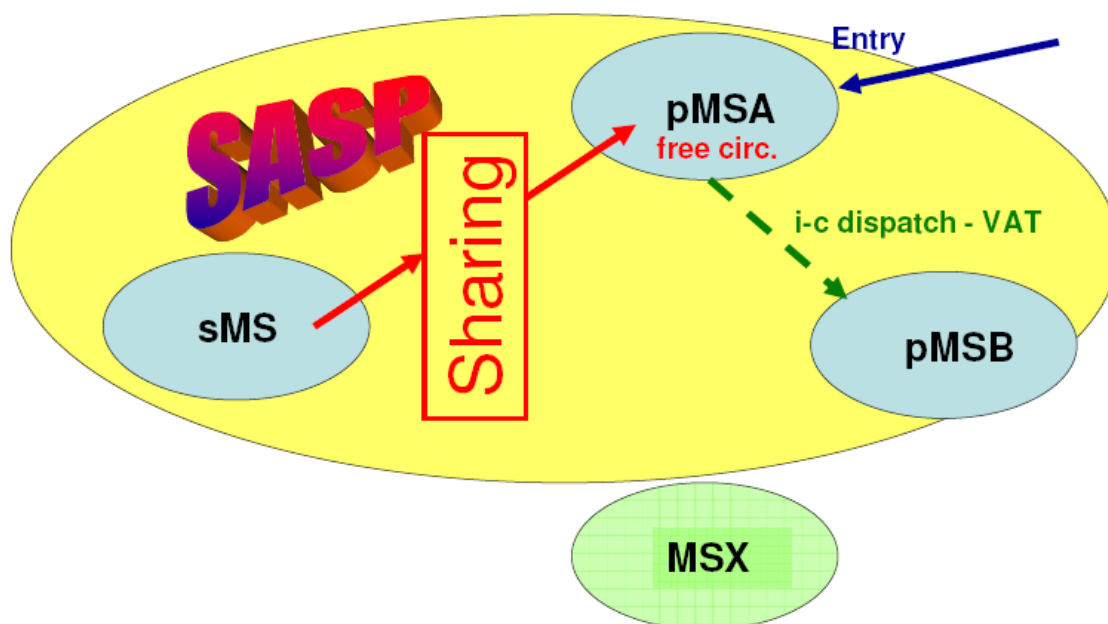
Entry of the goods in participating MSA -> Transit -> Release of the goods in participating MSB



The goods enter the EU in participating MS A (pMSA). Using the transit procedure, the goods are dispatched to participating MS B (pMSB) where they are released for free circulation.

As the release of the goods for free circulation takes place in pMSB, the collection costs are to be shared between the authorising Member State (sMS) and pMSB.

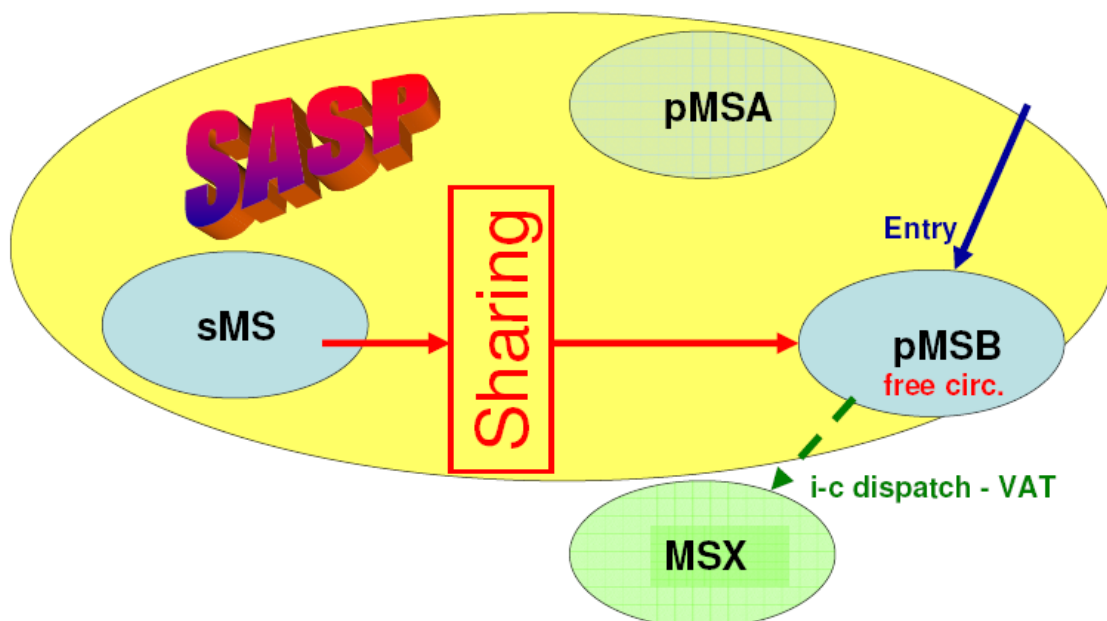
Entry and release of the goods in participating MSA -> intra-Community dispatch to participating MSB



The goods enter the EU in participating MS A (pMSA), where they are released for free circulation. Afterwards the goods are dispatched to participating MS B (pMSB) under VAT-exemption (intra-Community dispatch).

As the release of the goods for free circulation takes place in pMSA, the collection costs are to be shared between the authorising Member State (sMS) and pMSA.

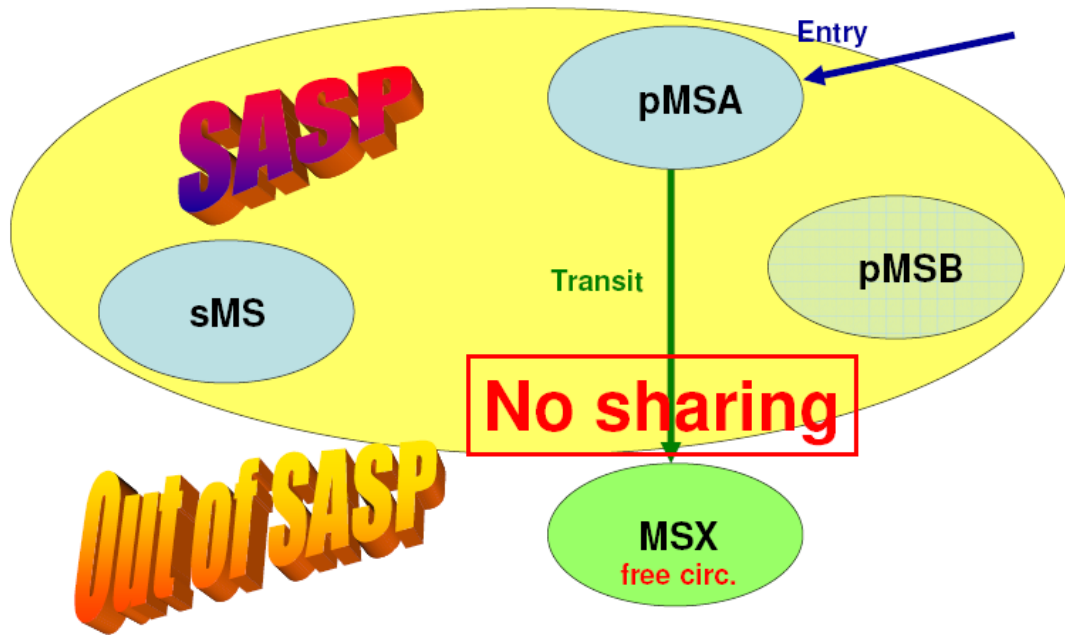
Entry and release of the goods in a participating MS -> intra-Community dispatch to non participating MS



The goods enter the EU in participating MS B (pMSB) where they are released for free circulation. Afterwards the goods are dispatched to a non-participating MS X (MSX) under VAT-exemption (intra-Community dispatch).

As the release of the goods for free circulation takes place in pMSB, the collection costs are to be shared between the authorising Member State (sMS) and pMSB.

Entry of the goods in a participating MS -> Transit -> Release of the goods in a non-participating MS



The goods enter the EU in participating MS A (pMSA). Using the transit procedure, the goods are dispatched to a non-participating MS X (MSX) where they are released for free circulation.

As the release of the goods for free circulation takes place in the non-participating MSX, the import duties are to be collected by that non-participating Member state.

This scenario is out of the scope of SASP

ANNEX II
IMPORT VAT PROVISIONS IN THE EC VAT DIRECTIVE (2006/112/EC)

Heading	Description	Articles
Territorial Scope	VAT territory of the EU	6 and 7
Taxable Transactions- supply of goods	MSs may treat each of the following transactions as a supply of goods for consideration.....goods imported in the course of business. “Importation of goods” shall mean the entry into the EU of goods which are not in free circulation. Term also covers goods which are in free circulation coming from a third territory (see Article 6(1))	18 (a) 30
Place of taxable transactions-place of importation of goods	The place of importation of goods shall be the Member State within whose territory the goods are located when they enter the EU. By way of derogation from Article 60, goods not in free circulation which are placed under one of the arrangements referred to in Article 156 (warehousing) or temporary importation....the place of importation shall be the MS within whose territory the goods cease to be covered by the arrangements. Similarly these rules apply to goods covered by transit arrangements.	60 61
Chargeable event and chargeability of VAT-importation of goods	The chargeable event shall occur and VAT shall become chargeable when the goods are imported. If goods are entered under special arrangements such as warehousing or temporary import etc....VAT shall be chargeable when goods cease to be covered by these arrangements. Where imported goods are subject to customs duties....VAT shall become chargeable when the chargeable event in respect of these duties occurs. Where imported goods are not subject to any customs duties, MSs shall ...apply the provisions in force governing customs duties.	70 71(1) 71 (2)
Taxable amount-importation of goods	In respect of importation of goods the <u>taxable amount</u> shall be the value for customs purposes determined in accordance with the EU provisions in force. Taxable amount shall include : (a) <u>taxes, duties, levies</u> (excluding VAT)	72

	<p>(b) <u>incidental expenses</u> such as commission, packing, transport, insurance incurred up to the first place of destination within the territory of MS of importation, as well as those resulting from transport to another place of destination within the EU where a chargeable event occurs.</p> <p>First place of destination shall mean place mentioned in consignment note. If no place mentioned....deemed place of first transfer of cargo in MS of importation.</p> <p>Shall not include:</p> <p>-discounts and rebates</p> <p>Where goods have been processed outside EU, MS must make sure goods treated as if processing had taken place within EU.</p>	<p>85</p> <p>86(1)</p> <p>86(2)</p> <p>87</p> <p>88</p>
Exemptions on importation	<p>MSs shall exempt the following transactions:</p> <p>.....</p> <p>(f) importation of goods under diplomatic and consular arrangements</p> <p>(g) importation by international bodies</p> <p>(h) importation of NATO goods</p>	143
Exemptions-transactions relating to international trade	Customs warehouses, warehouses other than customs warehouses and similar arrangements.	154-163
Deductions	<p>A right of deduction shall arise at the time the deductible tax becomes chargeable.</p> <p>In so far as the goodsare used for the purposes of the taxed transactions of a taxable person, the taxable person shall be entitled, in the MS in which he carries out these transactions, to deduct the following from the VAT which he is liable to pay:</p> <p>(e) the VAT due or paid in respect of the importation of goods into third Member State.</p>	<p>167</p> <p>168</p>
Rules governing right of deduction	In respect of importation of goods, must hold an import document specifying him as consignor or importer and stating the amount of VAT due or	178(e)

	enabling that amount to be calculated.	
Obligations of taxable persons and certain non-taxable persons -persons liable for payment of VAT to the tax authorities.	VAT shall be payable by any taxable person carrying out a taxable supply of goods, with certain exceptions. Where the taxable supply of goods is carried out by a taxable person who is not established in the MS in which the VAT is due, MSs may provide that the person liable for payment of VAT is the person to whom the goods or services are supplied. MSs shall lay down the conditions for implementation of paragraph 1	193 194(1) 194(2)
On importation	On importation, VAT shall be payable by any person or persons designated or recognised as liable by the MS of importation	201
Payment arrangements	MSs shall lay down the detailed rules for payment in respect of the importation of goods. In particular, MSs may provide that, in the case of the importation of goods by taxable persons or certain categories thereof, the VAT due by reason of the importation need not be paid at the time of importation, on condition that it is entered as such in the VAT return to be submitted in accordance with Article 250.	211
VAT Returns	Every taxable person shall submit a VAT return setting out all the information needed to calculate the tax that has become chargeable and the deductions to be made including in so far as is necessary for the establishment of the basis of assessment, the total value of the transactions relating to such tax and the deductions and the value of any exempt transactions. Can be made by electronic means.	250(1) 250(2)
General obligations	Every taxable person shall keep accounts in sufficient detail for VAT to be applied and its application checked by the tax authorities.	242
Returns	Member States shall lay down detailed rules for the submission of VAT returns in respect of the importation of goods.	260
Obligations relating to certain importations and exportations	Import formalities shall apply to goods which enter the EU from a third territory forming part of the customs territory of the EU.	274
Exportation	The formalities relating to the exportation of goods shall be the same as those laid down by the EU customs provisions in force for the export of goods from the EU.	279

**ANNEX III
MEMBER STATES BASIC IMPORT VAT REQUIREMENTS**

SASP Questionnaire 2009 VAT and statistical declarations under SASP arrangements ¹² <i>Answers from Member States received until 8 January 2010</i>		
Member State	Submission of Import VAT declaration under SASP	Submission of statistical declaration under SASP
France	<p>As an issuing MS The tax event occurs and VAT becomes chargeable on importation at the same time as for customs duties, i.e. when the goods are imported. The moment of importation differs according to whether the goods enter France under a Community suspensive arrangement or not. When goods enter the EU under a suspensive arrangement, they are deemed to be released for consumption in France when a declaration of release for free</p>	<p>As an issuing MS France is not yet involved as authorising MS.</p>

¹² Based on replies to a questionnaire in 2010, in some cases updated.

	<p>circulation is given, on cessation of the initial arrangements. If goods are not under a Community suspensive arrangement, the moment of importation is when they enter France, whether they are released for consumption in France or placed under another suspensive arrangement (bonded warehouse, inward processing). VAT is then payable to the Customs service in accordance with Article 1695 of the General Tax Code.</p>	
	<p>As a participating MS Centralised clearance introduces dissociation between clearance formalities and collection costs, which are supported by the Authorising MS, and import VAT payments, which depend on the Participating M.S.</p> <p>In case of a SASP, granted in another MS the company needs to be registered with the Income Revenue Service in charge of non-resident persons. The economic operator must use an electronic import VAT (SAD like COM 4). It can be a simplified declaration for each importation and a supplementary VAT declaration (generally lodged on monthly basis) if Delta D is used. In the case of Delta C, the economic operator will establish a complete declaration for each arrival of goods.</p>	<p>As a participating MS For statistical purposes, as participating MS, we ask the authorised companies to transmit each month, electronic files including all mandatory data of the SAD, relating to the goods which have physically entered France during the month.</p>
<p>United Kingdom</p>	<p>VAT/statistics: Normal Method of Collection</p> <p>In the UK, our existing reporting system for simplified procedures is the Customs Freight Simplified Procedures (CFSP). CFSP is a two-stage electronic declaration method. It offers the economic operator a variety of procedures which may be operated in isolation or combined to best meet the economic operator's needs.</p>	

The economic operator may opt to use either the Simplified Declaration Procedure (SDP) or Local Clearance Procedure (LCP) or both. In both cases the import declaration is submitted in two stages. The initial message provides Customs with a minimum amount of data which effects release of the goods. This message may be provided either in the format of a Simplified Frontier Declaration (SFD) which is submitted to Customs at the frontier (SDP) or as an entry in the economic operator's commercial records (LCP).

The simplified declaration is then followed by an electronic SAD which contains the full fiscal and statistical data. This Supplementary Declaration (SD) must be submitted before the end of the 4th working day following the **'end of the reporting period'** in which the acceptance of the simplified declaration occurred. Our central customs computer system CHIEF then calculates the duty and VAT due and payment is collected by duty deferment. The statistical data is also transferred from CHIEF to our statistical database.

VAT/statistics: As an issuing MS

The economic operator submits SADs in the UK for both the UK and other Member States' imports. Import VAT and statistics are collected in the normal way for goods imported into the UK.

For imports of goods physically located in another Member State the economic operator will have to include an ISO alpha country code in box 30, a method of payment code in box 47 to suppress the import VAT due and a code in box 44 to identify the Member State where the goods are located in the customs declaration. This ensures that the UK does not collect Import VAT and statistical information appropriate to the participating Member State.

Economic Operators have the option to either submit an aggregated monthly declaration or separate declarations throughout the month.

VAT/statistics: As a participating MS

In the UK we decided to use our existing electronic reporting system for simplified procedures as the basis for economic operators to report their Import VAT and statistics. Economic operators have the option of either submitting one monthly aggregated declaration or a number of separate declarations throughout the month.

An economic operator will submit to UK customs valid supplementary VAT and statistical declarations and ensure that any

	<p>failed messages are actioned, corrected and re-submitted by the 4th working day of the month following the creation of the tax point and/or base date i.e. the acceptance date of the simplified frontier declaration or the dated and timed entry in the Local Clearance record.</p> <p>The supplementary declaration will be in the format of our normal electronic declaration for simplified procedures but a Method of Payment code will need to be included in box 47 to suppress the customs duty as this will be paid in the authorising Member State, and a code will need to be included in box 44 to identify the Member State where the SASP is authorised. This ensures that the appropriate import VAT is collected and the statistics reported.</p> <p>The economic operator will then submit a Final Supplementary Declaration (FSD) to UK customs at the end of each reporting period confirming the number of Supplementary VAT and Statistical declarations finalised and the number of each due during the period, together with the number of any outstanding supplementary VAT and statistical declarations from previous periods. Nil returns are required. The final supplementary declaration must be submitted and accepted by CHIEF by the 4th working day deadline.</p>	
Italy	<p>As an issuing MS Possible solutions under discussion at a national level</p>	<p>As an issuing MS Possible solutions under discussion at a national level</p>
	<p>As a participating MS Possible solutions under discussion at a national level</p>	<p>As a participating MS Possible solutions under discussion at a national level</p>
Ireland	<p>As an issuing MS The process required in Ireland as an issuing MS for submission of import VAT declarations is as follows;</p> <p>Security for customs duty and VAT provided by the economic operator. The import VAT declaration for Irish imports is made at the same time as the customs declaration.</p> <p>A pre authenticated release note (PARN) is submitted by e-mail to the relevant customs authorities in Ireland. The PARN entry</p>	<p>As an issuing MS The supplementary declaration submitted for the month in question for all declarations and charges, including VAT applicable in Ireland, are the basis for statistical data.</p>

signals that the arrival of the goods is imminent and permits risk analysis to be considered. Entry in the record of the economic operator is made which has the same legal force as a normal customs entry.

A supplementary declaration is submitted for the month in question where all charges, including VAT applicable in Ireland, are formally declared. There are two options;

- Individual supplementary declarations per consignment items to be submitted; or
- a global declaration containing all single line items per consignment for the month in question to be submitted by the 5th day of the following month.

By the 5th day of the following month, the economic operator provides a full report of all activity for the previous month. This report, along with PARNs presented, form the basis for a manual post clearance write off against supplementary declarations presented.

By the 15th of the following month, customs duty and VAT for the reference month is debited from the economic operator's account by means of the deferred payment facility. Every 30 months, a VAT at the point of entry audit must be completed.

	<p>As a participating MS The process required by Ireland as a participating MS for submission of import VAT declarations is as follows;</p> <p>Security provided by the economic operator for import VAT in Ireland.</p> <p>A PARN is provided by the economic operator in respect of goods imported into Ireland. Unique Consignment numbers (UCRNs) must be assigned to each consignment as per a prescribed format. The presence of these UCRNs in Box 44 of the ultimate supplementary declaration permits cross-reference with the original PARNs.</p> <p>PARN is copied to all relevant Irish import stations and control officers to permit risk analysis where considered appropriate.</p> <p>By the end of the month concerned, a supplementary declaration for VAT will be made through the Irish AEP Clearance system.</p> <p>By the 15th of the following month, VAT is debited from the economic operator's account by means of a deferred payment facility.</p>	<p>As a participating MS The supplementary declaration submitted for the month in question for VAT applicable in Ireland, is the basis for statistical data.</p>
Estonia	<p>As an issuing MS No experience with SASP</p>	<p>As an issuing MS No experience with SASP</p>
	<p>As a participating MS No experience with SASP</p>	<p>As a participating MS No experience with SASP</p>
Sweden	<p>As an issuing MS</p>	<p>As an issuing MS</p>

	No experience with SASP	No experience with SASP
	As a participating MS No experience with SASP	As a participating MS No experience with SASP
Lithuania	As an issuing MS No experience with SASP	As an issuing MS No experience with SASP
	As a participating MS No experience with SASP	As a participating MS No experience with SASP
Greece	As an issuing MS No experience with SASP	As an issuing MS No experience with SASP
	As a participating MS No experience with SASP	As a participating MS No experience with SASP
Austria	As an issuing MS The duty calculation (incl. VAT, excise duties, ...) for national authorisations for simplified procedures always is carried out by the Customs administration on the basis of the supplementary customs declaration. For the imports under a SASP authorisation the economic operator has to indicate the location of the goods, where they have been physically released. If the goods have been released in another Member State only the calculation of customs duties takes place; VAT is to be collected by the participating Member State(s) concerned.	As an issuing MS For national authorisations for simplified procedures the statistical data always is provided by the customs administration to the statistical authorities on the basis of the supplementary customs declaration. For the imports under a SASP authorisation the economic operator has to indicate the location of the goods, where they have been physically released. If the goods have been released in another Member State there is no collection of the statistical data; the statistical data has to be communicated by the authorisation holder to the

		<p>designated authorities (customs, statistics ...) in the participating Member State(s) concerned.</p> <p>For SASP procedure with Slovenia the data of the supplementary customs declaration is communicated to the Slovenian customs administration electronically (via e-mail); the Slovenian customs administration extracts the relevant statistical data and provides it to the statistical authorities</p>
	<p>As a participating MS For import VAT the economic operator has to apply for an authorisation for a simplified VAT declaration; this is a global declaration, which has to be lodged for a period of a month until the twelfth day of the following month.</p> <p>This simplified VAT declaration contains the following particulars for the goods released in Austria (for the period of a months separated according to the 2 applicable tax rates):</p> <ol style="list-style-type: none"> 1. the customs value 2. the amount of import customs duties 3. the amount of additional costs applicable in Austria 4. the tax rate applicable 5. the VAT amount determined by the economic operator 	<p>As a participating MS The statistical declarations have to be lodged direct with the statistical authorities; the applicant for a SASP authorisation therefore has to apply for a separate statistical authorisation. The form and the media to communicate the statistical declaration direct to the statistical authorities have to be agreed in advance between the applicant and the statistical authorities.</p> <p>An agreement to a SASP authorisation only can be given when the statistical authorisation has been granted</p>
Finland	As an issuing MS	As an issuing MS

	<p>As a participating MS</p> <ul style="list-style-type: none"> - Belgian Customs sends customs clearance declaration information on DVD. - The authorisation holder gives a monthly periodical declaration to Finnish customs office in Vantaa using SAD form. - Finnish Customs office compares the Belgian customs clearance information and monthly periodical declaration - Finnish customs clearance system calculates the VAT amount - Finnish customs office sends the VAT decision to Toyota <p>A copy of declarations and VAT decisions are sent to Belgian Customs and originals are archived at Finnish Customs in Vantaa</p>	<p>As a participating MS</p> <p>No separate statistical declarations, Finnish customs get statistic information with VAT declaration.</p> <p>In Finland, Finnish Customs act also as the Statistical Authorities.</p>
Bulgaria	<p>As an issuing MS</p> <p>No experience with SASP</p>	<p>As an issuing MS</p> <p>No experience with SASP</p>
	<p>As a participating MS</p> <p>No experience with SASP</p>	<p>As a participating MS</p> <p>No experience with SASP</p>
Latvia	<p>As an issuing MS</p> <p>No experience with SASP</p>	<p>As an issuing MS</p> <p>No experience with SASP</p>
	<p>As a participating MS</p> <p>No experience with SASP</p>	<p>As a participating MS</p> <p>No experience with SASP</p>
Slovakia	<p>As an issuing MS</p>	<p>As an issuing MS</p>

	No experience with SASP	No experience with SASP
	As a participating MS No experience with SASP	As a participating MS No experience with SASP
Slovenia	As an issuing MS No experience with SASP	As an issuing MS No experience with SASP
	As a participating MS Due to procedure 42 no VAT declaration needed	As a participating MS <ul style="list-style-type: none"> • Due to procedure 42 less data is required • Customs Administration of Republic of Slovenia has reached an agreement with Statistical Administration about required data and the way of their transfer. Necessary data is obtained from Austrian supplementary declaration (transformation of data is done by our IT provider).
Hungary	As an issuing MS There are no specific rules: the import VAT is calculated and collected on the basis of the data elements of the supplementary declaration	As an issuing MS The statistical data is collected on the basis of the data elements of the supplementary declaration
	As a participating MS The holder of the authorisation shall provide the following particulars in form of a VAT declaration to establish the VAT till the 10 th day of each calendar month covering the transactions for release for free circulation, inward processing (drawback system) and end use (unless he holds an	As a participating MS The authorisation holder is directly contacted by the Hungarian Central Statistical Office.

	<p>authorisation to pay the VAT by self declaration):</p> <ul style="list-style-type: none"> - identification of the debtor, - number and date of the invoice, - reference to the supplementary declaration, - customs value, - amount of customs duties, - costs occurring to the inland destination to be calculated into the base of VAT, - base, rate and amount of VAT. 	
Portugal	<p>As an issuing MS No experience with SASP</p>	<p>As an issuing MS No experience with SASP</p>
	<p>As a participating MS No experience with SASP</p>	<p>As a participating MS No experience with SASP</p>
The Netherlands	<p>As an issuing MS The company that applies for SASP has to comply with the rules and regulations for the reporting and payment of VAT in each participating Member State before the authorisation is granted.</p>	<p>As an issuing MS The company that applies for SASP has to comply with the rules and regulations for the reporting of statistical data in each participating Member State before the authorisation is granted.</p>
	<p>As a participating MS Concerning the import of goods into the Netherlands by using an SASP granted by another Member State, VAT is levied in the Netherlands. The VAT must be calculated over the customs value of the imported goods. For the levying of the VAT the customs value has to include:</p>	<p>As a participating MS The SASP authorisation holder must forward the relevant statistical data concerning good flows in the Netherlands directly to the Central Bureau of Statistics (C.B.S.). The SASP authorisation holder must make the necessary arrangements with the CBS himself.</p>

	<p>(1) import duties, taxes and levies; (2) additional costs such as commission costs, packaging costs, transport and insurance to the place of destination.</p> <p>Article 23 Wet op de omzetbelasting 1968 (from now: VAT law) creates the possibility to levy VAT concerning the import of goods destined for designated entrepreneurs from those designated entrepreneurs. Designating the entrepreneur is done on request by decision by the tax-inspector. When the request is granted the applicant will be given a BTW-identificatienummer (VAT identification number). By using the procedure meant in Article 23 VAT law the levying of VAT is shifted (or deferred) from the import declaration to the periodic (usually monthly) VAT declaration from the designated entrepreneur over the period in which the import took place. Instead of the declarant (Article 201 CC) the entrepreneur designated on basis of Article 23 VAT law is the debtor for the VAT. This procedure is called the “verleggingsregeling artikel 23” (deferment procedure Article 23).</p> <p>The use of the deferment procedure Article 23 is mandatory when goods that are physically present in the Netherlands at the time of import, are released for free circulation by using an SASP granted by another Member State. The SASP authorisation holder must include the VAT identification number of the designated entrepreneur in his import declaration. A copy of the decision to designate the entrepreneur is added as annex to the SASP.</p>	
Poland	<p>As an issuing MS Import VAT tax occurs in MS where goods are located, when they are released for free circulation. It is the place in</p>	<p>As an issuing MS Poland as issuing MS collects statistical data directly from the supplementary declaration, which should be submitted</p>

<p>Participating MS. In such a case, during the process of issuing the authorisation, the Polish customs authorities agree under consultation procedure, requirements relating to VAT in Participating MS. Then Polish customs authorities include those VAT requirements in SASP authorisation and specify them in the Joint Control Plan.</p>	<p>electronically. We require, according to our national legislation, additional information in supplementary declaration -box 15a – MS of actual export and -box 17a - MS of final destination. These rules should also be included in the authorisation.</p> <p>Statistical data, which is collected from supplementary declaration, is delivered as EXTRASTAT statistics to EUROSTAT.</p> <p>No additional statistical rules in EXTRASTAT required from economic operator or his representative.</p>
<p>As a participating MS Import VAT tax occurs in Participating MS. In Poland, the economic operator (regulation covered in national law) is obliged to be registered in tax office and then submits import declaration for VAT purposes in local customs office. The form of import declaration for VAT purposes, schedule, simplifications, competent authorities for submission are set out in Polish legislation. The data required in import declaration for VAT purposes is based on the data covered in supplementary declaration (which is submitted in SMS). The import declaration for VAT purposes should be lodged till the 16th day of each month following the month in which import tax duties occurred.</p> <p>As participating MS Poland agrees VAT issue under consultation procedure with Authorising MS. Because of lack of supplementary declaration in Participating</p>	<p>As a participating MS Poland as participating MS requires statistical data from economic operator or his representative only for national purposes. This statistical data is not transferred to EUROSTAT.</p> <p>The rules relating to; - form of statistical declaration, - range of data elements, - schedule -competent authorities are unified and published on our website (only in Polish): http://www.mf.gov.pl/dokument.php?const=2&dzial=529&id=155935</p> <p>According to this regulation, the statistical declaration should be submitted exclusively electronically. This declaration</p>

	<p>MS, it is very important to agree exchange of information between PMS and SMS. It should allow customs authorities to supervise the accuracy of import declaration for VAT purposes and identify all irregularities. The Joint Control Plan should include the VAT issue.</p> <p>Submission of VAT guarantee is required from economic operator.</p>	<p>should be lodged monthly, till the 20th day of each month, following month of statistical period.</p> <p>These statistical rules should be agreed with Authorising MS under consultation procedure, and included in the authorisation and the Joint Control Plan.</p>
Czech Republic	<p>As an issuing MS No experience with SASP</p>	<p>As an issuing MS No experience with SASP</p>
	<p>As a participating MS No experience with SASP</p>	<p>As a participating MS No experience with SASP</p>
Romania	<p>As an issuing MS No experience with SASP</p>	<p>As an issuing MS No experience with SASP</p>
	<p>As a participating MS No experience with SASP</p>	<p>As a participating MS No experience with SASP</p>
Cyprus	<p>As an issuing MS No experience with SASP</p>	<p>As an issuing MS No experience with SASP</p>
	<p>As a participating MS No experience with SASP</p>	<p>As a participating MS No experience with SASP</p>
Malta	<p>As an issuing MS No experience with SASP</p>	<p>As an issuing MS No experience with SASP</p>

	As a participating MS No experience with SASP	As a participating MS No experience with SASP
Luxembourg	As an issuing MS No experience with SASP	As an issuing MS No experience with SASP
	As a participating Member State No answer	As a participating Member State IBM Deutschland GmbH : DE/3200/a1/1007 Zollamt Darmstadt (participating countries: Germany – Austria – Luxembourg – Netherlands) According to the authorisation, - as approved by our Luxembourg customs authorities- extrastat data is sent to the "Service central de la statistique et des études économiques" (authorisation number: 999000030 dated as from 05.05.2006)
Denmark	As an issuing MS No experience with SASP	As an issuing MS No experience with SASP
	As a participating MS No experience with SASP	As a participating MS No experience with SASP
Germany	VAT	Statistics
	For Import:	For Import:
	<i>As an issuing MS</i>	<i>As an issuing MS</i>

	A reconciliation of the data of the supplementary customs declaration with the supplementary VAT declaration of the participating MS can be agreed between the MS in a common control plan.	The applicant makes an arrangement of the intended procedure with the competent statistical authority of the participating MS. Only with the existence of the statistical agreement can a SASP be granted. The statistical authority of the authorizing MS is responsible for forwarding the statistical data to EUROSTAT.
	<i>As a participating MS</i> The authorisation holder has to lodge a supplementary VAT declaration on a monthly basis at the competent customs office of settlement and has to pay the duties incurred.	<i>As a participating MS</i> The applicant makes an arrangement with the Statistisches Bundesamt Wiesbaden (<i>Wiesbaden Federal Statistical Office</i>) for submitting the statistical data. The SASP may only be agreed, if the arrangement with the Statistische Bundesamt Wiesbaden is presented to the Hauptzollamt Nürnberg, Arbeitsgebiet Einzige Bewilligungen (<i>German contact point of SA/SASP</i>).
	For Export:	For Export:
	<i>As an issuing MS</i> The authorising office shall inform the applicant that the proof of exportation for VAT-purposes has to be supplied in the participating MS. Therefore the applicant has to arrange the proceedings with the competent VAT authority in the participating MS..	<i>As an issuing MS</i> See information ‘for import’
	<i>As a participating MS</i>	<i>As a participating MS</i>

The applicant has to clarify with the competent German Landesfinanz-behörden (*German fiscal authority at federal state level*) how to supply the proof of exportation for VAT-purposes concerning the export shipments from the German places of packing and loading.

See information ‘for import’.

**ANNEX IV
GENERAL RECOMMENDATIONS FOR PRE-AUDIT**

When preparing for and during the pre-audit, the customs authorities have to take into account:

- Any information provided by the applicant in advance through a self-assessment questionnaire;
- Part 2 of the AEO Guidelines for the criteria concerned
- Annex II of the AEO guidelines, which gives a non-exhaustive, but significant list of risks linked with the AEO authorisation, threats and possible solutions for both operators and customs authorities.

That Annex is especially useful during the pre-audit for SP, to identify risks which are mainly the same as those for the AEO authorisation. It also gives best practices on how to keep these risks under control.

The consultation of authorities responsible for P&R policies is appropriate in case of P&R goods.

Extract from Annex 2 AEO guidelines

Criterion	Sub-criterion
1. Compliance record (Section 2 from the SAQ) <i>An appropriate record of compliance with customs requirements (Article 14h of CCIP)</i>	
2. The applicant's accounting and logistical system (Section 3 from SAQ) <i>A satisfactory system of managing commercial and</i>	2.1. Compliance record (Section 2 from the SAQ) Article 14i (a) of CCIP

A satisfactory system of managing commercial and where appropriate, transport records, which allow appropriate customs controls (Article 14i of CCIP)

2.2. Audit trail (Subsection 3.1 from SAQ)

Article 14i (b) of CCIP

2.3 Logistical system that distinguishes Community and non-Community goods

Article 14i (c) of CCIP

2.4. Internal control system (Subsection 3.3 from SAQ)

Article 14i (d) of CCIP

2.5 Flow of goods (Subsection 3.4 from SAQ)

Article 14i (e) of CCIP

2.6. Customs routines (Subsection 3.5 from SAQ)

Article 14i (e) of CCIP

2.7. Procedures as regards back-up, recovery and fall-back and archival options (Subsection 3.6 from SAQ)

2.8 Information security – protection of computer systems (Subsection 3.7 from SAQ)

2.9 Information security – documentation security (Subsection 3.8 from SAQ)

3 Financial solvency (Section 4 from SAQ)

Proven financial solvency (Article 14j of CCIP)

authorisation for SP

Examples of the types of

- SP/SASP - applicant is AEO authorised.
- SP/SASP - applicant is not AEO authorised.
- SP/SASP - involving the use of a CPEI regime i.e. Customs Warehousing
- SP/SASP - involving end-use
- SP/SASP - declaration for release to free circulation using LCP
- SP/SASP - declaration for release to free circulation using SDP
- SP/SASP - declaration for export
- SP/SASP - involving a combination of the procedures described above

ANNEX V
STANDARD CHECK-LIST FOR PRE-AUDIT VISITS

The pre-audit for SP focuses on some conditions and criteria for AEO status, but also specific aspects of the SP used. They can be considered as additional requirements to AEO conditions and criteria, if not checked during a previous audit:

- Place where the goods are unloaded and presented to customs in case of control (security of the premises and internal rules for inventory of those goods...)
- Representatives or declarants for the use of SP
- The form of the simplified declaration
- The deadlines for the lodgement of the simplified declaration
- Reconciliation between simplified declaration and supplementary declaration
- The form of the notifications in case of LCP
- Justifications for notification waiver
- Notification waiver and notification on request
- The time-period before release of the goods, if applicable
- Form and content of the records
- Link between SP records and the accounting system.
- Specific guarantees, if applicable
- Use of deferred payment

Items	Information to check	Findings	Evaluation High / low risk (score)	Recommendations / Required measures
Section 1 General information				
1	Applicant's details			
	(Name-Address-EORI- Contact persons)			
1d	Type of representation			
2a	Local clearance procedure			
	Number-characteristics			
2b	Simplified Declaration Procedure			
	Number-characteristics			
3	Other authorisations (code)			
4a	AEO certificate			
4b	Other procedures to be used with SP			
5	Main commercial accounts, address and type			

- 6 Continuation forms (additional lists)

Section 2 – Elements to check for Imports
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- 7 Customs records for the procedure, address and type
- 7a Notification of arrival at import or notification waiver
- 8 Type of goods, quantity, value...
- 8a P&R requirements
- 9 Customs Procedure Codes to be entered on simplified declarations
- 10 LCP - authorised location of the goods (inland place of clearance) and authorising office(s)
- 11 SDP – Customs office for lodgement of SDs
- 12 SASP – Companies included in the authorisation
- 13 SASP – Applicant's authorising office

Participating offices

14 Reconciliation of the simplified declaration or notification with the supplementary declaration

15 Authorised Consignee

a

Transit guarantee

15 Security - deferment account number and amount of guarantee

b

15 Payment – deferment account number of applicant or client. Client address details

c

15 Address and VAT details of any Direct Representatives

d

16 SASP - consent for exchange of information

Section 2 –Elements to check for Exports

7 Customs records for the procedure, address and type

7a Notification of departure or

notification waiver

- 8 Type of goods
- 8a P&R requirements
- 9 Customs Procedure Codes to be entered on simplified declarations
- 10 LCP - authorised location of the goods (inland place of clearance) and authorising office(s)
- 11 SDP – Customs office for lodgement of SDs
- 12 SASP – Companies included in the authorisation
- 13 SASP – Applicant's authorising office

Participating offices

- 14 Reconciliation of the simplified declaration or notification with the supplementary declaration
- 15 Authorised Consignor
- a

16 SASP - consent for exchange of information

Section 3 Additional requirements when the applicant is not an AEO

17 **Compliance record (Article 14h CCIP – Part 2, point 2.I.1 of the AEO guidelines)**

Compliance history

Knowledge of customs legislation

Intelligence information

18 Accounting and logistical system of the applicants business (Article 14i CCIP – Part 2, point 2.I.1 of the AEO guidelines)

Audit trail

Accounting and logistical system

Internal control systems

Making notifications of release of the goods

Making customs declarations and the use of customs agents (anticipated)

Lodging supplementary declarations

(time period)

Procedures for back up, recovery,
fallback and archiving

Information security – protection of
computer systems

Information security – documentation
security

19 Financial solvency (Article 14j CCIP – Part 2, point 2.I.3 of the AEO guidelines)

Finalised accounts

Submission of accounts.

Additional Comments

**ANNEX VI
DIVISION OF RESPONSIBILITY**

Authorising Member State	Participating Member State
Issuing process	
<p>An application for a Single Authorisation is submitted to the responsible customs authorities in the MS where the main accounts are held or are accessible.</p> <p>After receiving the application, the competent customs authorities examine the criteria for granting the authorisation. This process may include:</p> <ul style="list-style-type: none"> • verifying whether the obligations with regard to simplified procedures can be fulfilled by the company; • an audit of the management and internal control of the company; • risk analysis. <p>When the customs authorities are convinced that the requirements for granting a Single Authorisation have been met, a draft of the authorisation is made and sent to the contact point(s) in the participating MS(s) (if necessary in the appropriate translation(s)) via the IT system.</p> <p>Until the SA-IT system is implemented, e-mail should be used.</p> <p>The authorisation is granted/application is refused.</p> <p>A final version of the authorisation is distributed to the MS(s) concerned (if necessary in the appropriate translation(s)) via the IT-system. Until this system is available, e-mail should be used.</p>	<p>Depending on the circumstances, part of the pre-audit may be carried out in the participating MS, if possible in the form of a joint audit.</p> <p>The customs authorities of the participating MS, after having received the application and the draft authorisation, must raise any objections or communicate their decision to the issuing customs authorities within 30 days; if more time is needed to make a decision, the authorising office must be informed of the reasons within the same time limit. During this period of time provisions for VAT and statistics (and national regulations) are made.</p> <p>The decision is communicated to the authorising MS via the IT-system. Until this system is available, e-mail should be used.</p>

ANNEX VII
JOINT CONTROL PLAN BETWEEN THE CUSTOMS ADMINISTRATIONS
PARTICIPATING IN THE SINGLE AUTHORISATION FOR THE SIMPLIFIED
PROCEDURES

1. Control Actions

Kind of control	Responsible customs office	Main reason for the control	Further reason
Inspection according to Article 68 a) Reg. (EEC) No 2913/92	Local or authorising office	Concrete request from the authorising customs office or initiated by the local office under national legislation	Notification of the control results to the authorising customs office
Inspection of the goods under Article 68 b) Reg. (EEC) No 2913/92	Local office	Concrete request from the authorising customs office or initiated by the local office	Notification of the control results to the authorising customs office
Retrospective checks on procedures in the authorisation holder's or representative's company (customs audit)	Competent customs authorities	Concrete request from the authorising customs office or initiated by the local office	Transmission of the audit results to the authorising office
Value added tax (VAT) and other national regulation.	Responsible office according to national legislation or service in charge of post-release controls	Required under national VAT law; concrete request by the responsible office in accordance with national legislation	Request for additional information by the authorising customs office
Verification of data in the supplementary declaration; for instance amount of customs duties	Authorising customs office	Required by law and in accordance with national administrative instructions	In the case of discrepancies which would have an effect on customs duties and would also affect the VAT in the participating Member State, the local offices are informed
Taking an inventory	Local customs office	Customs audit; concrete request from the authorising customs office	An inventory is taken in the storage place in the participating MS; notification of the control results to the authorising customs office

2. General arrangements:

- Each request and each answer / notification has to be completed using the form set out in Annex X, in English. If necessary, an additional sheet can be added. This should be done electronically where possible.
- How and where to communicate the requests and answers and/or notifications? This is to ensure that the information is passed on to the intended contact person.
- The two people indicated below will cooperate closely to ensure the control and administration of the procedure.

3. Contact points:

a) authorising customs office:

Name:

Address:

Official in charge:

Phone number:

Fax number:

e-mail address:

b) local customs office:

Name:

Address:

Official in charge:

Phone number:

Fax number:

e-mail address:

4. Data protection

In consideration of national laws governing data protection and data security an encoder should be used for sending information on controls between the authorising and the participating customs offices.

For example, Germany and Finland use the freeware 7zip as encoder (software).

**ANNEX VIII
JOINT CONTROL PLAN**

1. Joint control plan

Authorising Member State	Participating Member State
<p>The authorising customs authorities and/or authorising office, taking into consideration:</p> <ul style="list-style-type: none"> • the characteristics of the company (for instance AEO status); • the goods which are to be imported or exported and • relevant data, <p>carry out a risk analysis. The authorising office then decides the best strategy to reduce or eliminate possible risks. This strategy is included in a draft control plan for the Single Authorisation (see Annex IX for a control plan including types of control, division of responsibilities and procedures).</p> <p>In general, the control plan includes four types of control:</p> <ul style="list-style-type: none"> • audits (administrative controls); • verification of the declaration and other documents; • physical checks of the goods;¹³ • post-release controls; <p>The draft control plan is sent to the contact point(s) in the participating MS(s), if necessary in the appropriate translation(s), via the IT system. Until this system is available, e-mail should be used.</p>	<p>The contact point in the participating MS contacts the local customs office(s) and, if necessary, other competent authorities.</p> <p>The draft control plan indicates any special notifications required, and the clearance</p>

¹³ Physical checks of the goods are carried out by the local offices responsible for the place where the goods are located at the time of import / export.

<p>It is recommended that a meeting between the customs administrations of the authorising MS and the participating MS(s) is organised. This would contribute to a better mutual understanding and offers the possibility of building a better relationship between the contact persons concerned. .</p> <p>The draft control plan is completed taking account of the suggestions and requests made by the participating Member States. If necessary, some procedures will be inserted in the authorisation.</p> <p>The control plan is agreed via the IT system.</p>	<p>procedure.</p> <p>In general, it will indicate the type and the number of controls to be carried out and practical requirements, such as response times.</p> <p>Where appropriate, the customs authorities also inform the authorising office about controls required under national legislation.</p> <p>In exceptional circumstances, the customs authorities in the participating MS carry out post-release controls.</p> <p>The control plan is agreed via the IT system. Until this system is available, e-mail should be used.</p>
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2. Physical checks

Authorising Member State	Participating Member State
<p>The authorisation must specify where and how the goods covered by the authorisation will be released for free circulation or another customs procedure, given that import goods may be released for free circulation or other customs procedure both by the authorising office and by the local customs office.</p> <p>The release can be granted:</p> <ul style="list-style-type: none"> -after notification to the local customs office of all the consignments presented in the participating MS; -through central entry of data in the records and the local customs office should be notified only in a specific time period or for specific types of goods. <p>The authorising office has to decide, together with the local customs offices, on the checks to be carried out in order to ensure the supervision of the procedure and the release of the goods for free circulation or other customs procedure.</p> <p>In accordance with the control plan, the authorising office asks the local customs offices to carry out a number (or percentage) of physical checks on arriving consignments or specific subjects. Usually a time period must be established during which the decision about the need to check the imported goods must be made.¹⁴</p>	<p>The holder of the authorisation has to notify the local customs office according to the authorisation, in principle whenever national requirements have to be met.</p> <p>Local customs offices carry out physical checks taking account of national legislation and the control plan.</p> <p>The local customs offices can carry out any type of controls on their own initiative (especially discharge of transit).</p> <p>The results of these checks are reported to the authorising customs office. The document in Annex X can be used both to request a physical</p>

¹⁴ When it is necessary that a specific consignment has to be checked, this request must be forwarded to the local customs office directly.

<p><i>Only for the simplified declaration procedure:</i></p> <p>For the SDP a simplified declaration has to be lodged, for each import, at the competent local customs office or at the authorising customs office.</p>	<p>check and to report the results of controls carried out.</p>
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<p align="center">Other types of control</p>	
<p>The authorising office verifies declarations, carries out post-clearance controls, audits and reassesses procedures.</p> <p>The authorising office should inform the participating MS(s) of any irregularities detected.</p>	<p>Part of the controls will be carried out in the participating MS(s), if possible in the form of a joint audit, whenever it is considered advisable.</p>

**ANNEX IX
CONTROL PLAN**

Objectives of the control plan

In accordance with Article 253 (6) CCIP, the holder of the authorisation shall comply with the conditions laid down and the obligations resulting from the authorisation and the rules governing the incurrence of a customs debt. In order to monitor compliance, the customs authorities need to draw up a control plan describing the controls that should be carried out. The scope and the frequency of the controls will vary, depending on the results of the risk analysis and whether the authorisation holder has an AEO certificate pursuant to Article 14a (1) a) or c) CCIP or not. The division of responsibility between the authorising MS and the participating MS should be indicated in the control plan.

This Annex is a tool for monitoring the control plans. A separate control plan on the basis of these guidelines has to be drawn up for each Single Authorisation.

The control plans shall take account of P&R requirements for deciding of any controls.

1. Verification of the declaration or notification and other documents - AEO

No	Compliance Action	Frequency	Risk Factor (High, Medium, Low)
1	<p>For the verification of customs declarations or notifications which they accepted, the customs authorities may, in accordance with Articles 68 (a) CC, 266 (1) and/or 285 (1) CCIP:</p> <p>Examine the documents or data covering the declaration or notification and the documents accompanying it. The customs authorities may require the declarant to present other documents for the purpose of verifying the accuracy of the particulars contained in the declaration.</p>	<p>According to Article 14 b (4) CCIP</p> <p>According to Article 4 f – 4 j CCIP</p>	

2	<p>For the verification of declarations or notifications which they accepted, the customs authorities may, in accordance with Articles 68 (b) CC, 266 (1) and/or 285 (1) CCIP:</p> <p>Examine the goods and take samples for analysis or for detailed examination.</p>	<p>According to Article 14 b (4) CCIP</p> <p>According to Article 4 f – 4 j CCIP</p>	
3	<p>Random check:</p> <p>The basis for the selection of consignments or declaration or notifications to be subject to customs controls shall include a random element according to Article 4 f (2) CCIP</p>	<p>According to Article 14 b (4) CCIP</p>	
4	<p>Notification to the customs authorities.</p> <p>The customs authorities may waive the requirement to present the goods to customs according to Article 76 (1) (c) CC.</p> <p>On condition that checks on the proper conduct of operations are not thereby affected, the customs authorities may exempt the holder of the authorisation from the requirement to notify the competent customs office of each arrival or departure of goods (Articles 266 (2) (b) and 285 (2) CCIP).</p> <p>The operator can, nevertheless, be asked to notify the customs authorities during a certain period of time.</p>	<p>According to Article 4 f – 4 j CCIP</p>	

2. Verification of the declaration and other documents - non-AEO

No	Compliance Action	Frequency	Risk Factor (High, Medium, Low)
1	<p>For the verification of declarations or notifications which they accepted, the customs authorities may, in accordance with Articles 68 (a) CC, 266 (1) and/or 285 (1) CCIP:</p> <p>Examine the documents or data covering the declaration or notification and the documents accompanying it. The customs authorities may require the declarant to present other documents for the purpose of verifying the accuracy of the particulars contained in the declaration.</p>	According to Article 4 f–4 j CCIP	
2	<p>For the verification of declarations or notifications which they accepted, the customs authorities may, in accordance with Articles 68 (b) CC, 266 (1) and/or 285 (1) CCIP:</p> <p>Examine the goods and take samples for analysis or for detailed examination.</p>	According to Article 4 f–4 j CCIP	
3	<p>Random check:</p> <p>The basis for the selection of consignments or declaration or notifications to be subject to customs controls shall include a random element.</p>	According to Article 4 f(2) CCIP	
4	<p>Notification to the customs authorities.</p> <p>The customs authorities may waive the requirement to present the goods to customs according to Article 76 (1) (c) CC.</p> <p>On condition that checks on the proper conduct of operations are not thereby affected, the customs authorities may exempt the holder of the authorisation</p>	According to Article 4 f–4 j CCIP	

<p>from the requirement to notify the competent customs office of each arrival of goods (Articles 266 (2) (b) and 285 (2) CCIP).</p> <p>The operator can, nevertheless, be asked to notify the customs authorities during a certain period of time.</p>		
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3. Post-release controls - AEO and non-AEO

No	Compliance Action	Frequency	Risk Factor (High, Medium, Low)
1	<p>Retrospective check will be made</p> <p>a) on supplementary declaration by the authorising MS:</p> <ul style="list-style-type: none"> destination of the goods tariff classification duties valuation origin exchange rates if applicable freight costs and terms of delivery <p>b) on compliance with prohibitions or restrictions or any other provisions governing release for the customs procedure concerned;</p> <p>c) on the handling of licenses and authorisations connected to commercial or agricultural policy measures;</p>	Based on identified risks.	

	<p>d) that employees dealing with customs matters are still aware of the need to inform the customs authorities whenever compliance difficulties are discovered and suitable contacts are established to inform the customs authorities of such occurrences;</p> <p>e) that where the applicant is a representative, satisfactory records and procedures are in place allowing the customs authorities to identify the persons represented and to perform appropriate customs controls.</p> <p>f) by the participating MS concerning: VAT Statistics on compliance with national prohibitions or restrictions or any other national provisions governing release for the customs procedure concerned</p>		
2	Retrospective checks on export or re-export will be performed in order to verify that the exported goods have left the EU		

4. Monitoring - AEO and non-AEO

No	Compliance Action	Frequency	Risk Factor (High, Medium, Low)
1	Retrospective checks will be performed by system-based controls in order to verify the requirements set out in Article 253c (1) c) CCIP.		
2	Retrospective checks will be performed in order to verify that the procedures		

	are carried out as agreed between the customs authorities and the operator.		
3	Retrospective checks will be performed in order to verify that changes in legal requirements are observed by the authorisation holder.		
4	Retrospective checks will be performed in order to verify that relevant changes in the legal structure and/or business operation of the authorisation holder are observed by the authorisation holder and communicated to the authorising customs office.		
5	Retrospective checks will be performed in order to verify that the holder of the authorisation has informed the issuing customs authorities of all factors arising after the Single Authorisation is granted which may influence its continuation or content in accordance with Article 253 (7) CCIP.		

5. SASP GENERAL MATTERS

No	Compliance Action	Frequency	Risk Factor (High, Medium, Low)
1	Decide on methods and a timescale for communication between the Customs Authorities of the MS involved.	As required	
2	Meetings between the Customs Authorities of the MS involved on progress of SASP.	As required	
3	Meetings between the Customs Authorities of the MS involved, to review operation of the SASP Control plan.	As required	
4	Meetings between the Customs Authorities of the MS involved and the	As required	

	authorisation holder or his representatives, to review operation of the SASP Control plan.		
5	Communicate the request for controls, results of control and other detected irregularities between the authorising and the participating MS.		
6	Joint audits.	as required	

ANNEX X
REQUEST FOR CONTROL IN THE CONTEXT OF A SINGLE
AUTHORISATION FOR SIMPLIFIED PROCEDURES

Requesting office/authorising office or local office

(name, address, officer's name, phone, e-mail address)

Kind of control (description of the content of the control):

Result of control:

Office which carried out the control (name, address, officer's name, phone, e-mail address)

Result of control:

ANNEX XI
ECA-CONTROL MODEL FOR SIMPLIFIED PROCEDURES

Annex II of the ECA special report No. 1/2010

1. Criteria for controls before authorising an economic operator

- (a) It should be checked whether the economic operator has an appropriate record of compliance with customs requirements, a satisfactory and reliable (IT) system for managing his commercial records, proven financial solvency and that it is possible to check compliance with import prohibitions or restrictions.
- (b) The administrative organisation and the internal controls of the economic operator should be audited; this audit should include a visit to the economic operator's premises.
- (c) The risks affecting the economic operator's business should be identified and assessed during the audit and covered by appropriate control measures; a control plan/ recommendation addressing the remaining risks should be established for each economic operator.
- (d) The results of the audit should be formalized in a report.
- (e) Economic operators should be properly advised during the authorisation process and made aware of their obligations and of the customs risks affecting their trade.
- (f) Authorisations should be a formal and explicit written commitment between customs and economic operator defining their cooperation and the rights and obligations of each party, including the economic operator's obligations to notify any changes arising in his business and organisation and to nominate a representative for customs matters.

2. Criteria for controls¹⁵ when processing simplified procedures i.e. on simplified declarations/ record entries and on supplementary declarations

¹⁵ The minimum number of checks before release and on supplementary declarations should depend on the degree of risk associated with the imports concerned. For traders having only low-risk imports, an uncertainty factor should nevertheless be maintained by carrying out random checks.

- (a) A minimum number of risk-based physical and documentary checks before release in order to maintain an uncertainty factor for the economic operator, detect irregular imports and avoid TOR underpayments should be carried out.
- (b) Substantive documentary checks on supplementary declarations should be carried out for the same purpose.
- (c) An automated reconciliation between supplementary declarations and simplified declarations/entries in the economic operator's records ensuring the completeness of supplementary declarations should be carried out.
- (d) Physical and documentary checks should be based on risk analysis, using appropriate automated data processing techniques including a random element.
- (e) Results of such checks should be properly recorded and fed back into the risk management system; regular performance measurement undertaken by Customs should ensure that risk profiles remain effective and up-to-date.

3) Criteria for ex-post audits¹⁶ on simplified procedures

- (a) Regular and planned ex-post audits should be carried out, based on sound and standardized audit methodology taking into account the economic operator's business risks and time-barring risks, some of them selected at random.
- (b) Audits should target transactions or specific subjects (e.g. customs valuation), systems including IT systems, or assess whether an economic operator still meets the conditions for the use of simplified procedures.
- (c) Audit findings should be formalized in a report and systematically followed-up; audit results should be fed back into the risk management system.
- (d) Quality assurance measures (e.g. economic operator performance or compliance measurement) should be implemented and economic operator self-assessment should be promoted.

¹⁶ In order to properly address the risk of time-barring of duties, ex-post audits targeting transactions should be carried at least every three years. The number of transactions to be checked in each ex-post audit should depend on the risks involved. A systems audit or an audit to assess whether the economic operator still meets the conditions for the use of simplified procedures can be carried out at longer intervals, but is always necessary if a system change (IT, other) occurs.

ANNEX XII
CONCLUSIONS OF THE ECA ON THE MS PRACTICES REGARDING
SIMPLIFIED PROCEDURES

(extract from the conclusions of the ECA special report No. 1/2010)

The ECA points out some specific sensitive points:

1. No standardised approach for controls/audits at the different phases of simplified procedures e.g. before authorisation or ex-post and the methods used for such controls/audits were often deficient. The Court's audit has shown that their controls/audits were frequently ineffective and that MS did not always follow the guidance provided by the Commission.
2. The significant number of poor or poorly documented pre-authorisation audits identified increases the risk that unreliable economic operators can operate simplified procedures.
3. The approaches used for checks during the processing of simplified procedures for the release of goods were varied and often of poor quality:
 - The frequent and unjustified use of "super-simplifications" (notification waivers) in the framework of the LCP and the general absence of automated risk profiles prevented checks before release and increased the risk of imports not respecting the obligations deriving from common trade policy measures and/or loss of TOR.
 - Few documentary checks on supplementary declarations and, in particular, the fact that simplified declarations/ entries in the economic operators' records were not systematically reconciled with supplementary declarations increased these risks.
4. The use of a deficient or partly deficient audit methodology including poor planning. In eight out of nine MS audited, the frequency of ex-post audits did not consider sufficiently the risk of time-barring of duties.
5. The absence of checks before and after release and, in particular, the absence of good quality and sufficiently frequent ex-post audits, encourage economic operator negligence. This in turn increases the risk of irregularities remaining undetected, leading to a loss of TOR or imports that do not respect the obligations deriving from the common trade policy.

6. The high number of errors in the samples of customs declarations show for simplified procedures that :

- a) checks before release are not effective,
- b) imports of goods requiring licences or similar documents are difficult to monitor if no reliable IT online management is in place,
- c) many economic operators did not respect the commitments they made in the framework of the authorisation to use simplified procedures, and
- d) ex-post audits are not frequent enough and did not adequately prevent or detect errors.

ANNEX XIII MS METHODOLOGY

Economic Operator Approach by the Customs Administration of the Netherlands

1. Introduction

This document describes the Economic Operator approach by the Customs Administration of the Netherlands for economic operators applying for and holding Customs authorisations for simplified procedures and customs procedures with economic impact. This approach has been developed over many years and has been implemented by several instructions, manuals, practices and audit support systems.

2. Policy

The mission of Customs Administration of the Netherlands is to monitor and help to ensure security and safety as well as the (fiscal) integrity of the flow of goods across the EU external border. Customs also levies and collects national excise and EU import duties. This mission is supported by policy aiming to enhance the compliant behaviour of economic operators.

Main principles to accomplish this mission are:

- Strengthening of the EU external border;
- Co-operation with the business EU and other enforcement agencies;
- Reducing logistic delay;
- Performing risk analysis and a more extensive use of intelligence.

Reducing logistic delay is accomplished by performing risk analysis and facilitating economic operators, wherever this is possible and justified. To be more specific, our policy is that Customs will not interfere within the supply chain without a reason and when it is decided to do a physical examination, it must be risk-based and done at a natural moment within the logistic way. Safety & security checks are done at the border. All other control activities have been performed at the economic operator's premises.

Facilitation of economic operators also means that the customs administration of the Netherlands supports the use of simplified procedures and customs procedures with economic impact extensively.

The basic condition for this approach is a highly developed risk management system.

Within this system there are two pillars:

2.2. Risk management on goods.

Within the process of Risk Management, segmentation has been made between different types of risks. Risks related to safety & security and risks related to customs duty, fiscal- and commercial policy controls.

2.2. Risk management on economic operators.

Risk management on economic operators has been elaborated in the so-called “Client Management Approach”, which is based on detailed knowledge of an economic operator and understanding the business. This approach concentrates on economic operators with authorisations for either simplified procedures and/or customs procedures with economic impact.

The main principles of the client management approach are

- focus on the economic operator as a whole;
- perform system based controls and
- continuous monitoring.

The client management approach is outlined in chapter 3.

3. Client management approach

3.1. Introduction

The client management approach focuses on the economic operator as a whole. By using an integrated approach we aim to achieve an optimal facilitation programme per economic operator related to his role in the supply chain, the type of goods the economic operator deals with and in the same time related to his level of compliance. This approach enables the economic operator, given his level of compliance, to act as effectively as possible with a minimum of logistical interference and delays in the supply chain. At the same time this approach offers reduction of administrative burdens and offers possibilities to reduce the claim on the economic operator’s cash flow.

It is an essential condition for customs to remain in control by implementing an effective audit approach. Monitoring capacity is deployed in the soundest manner. This is achieved by an economic operator-oriented individual risk assessment. The starting point for this risk analysis is the optimal use of (internal) control measures implemented by the economic operator himself and the audit work performed by third parties (external monitoring bodies).

This system-based approach is made possible by an analysis of the internal and external control environment of the economic operator beforehand. It is also important, prior to authorisation, to establish whether the Customs interests can be audited afterwards (ex-post audit).

This risk analysis takes place during a pre (authorisation) audit performed upon the application for simplified customs procedures and customs procedures with economic impact.

3.2. Pre- (authorisation) audit

The pre (authorisation) audit focuses on the following main questions:

- What is the most suitable customs simplification or economic procedure regarding the role of the economic operator in the supply chain and does the economic operator meet the legal condition regarding these facilitations?
- Do the economic operator's accounting organisation and the (measures of) internal control (AO/IC) meet the requirements of the relevant legislation and regulations concerned?
- Are the preliminary auditability requirements met (comply with data retention, presence of an audit trail, backup & recovery procedures etc.) and
- Indicate the compliance level of the economic operator?

In deciding upon the customs facilitations that are most appropriate for the economic operator, the auditor should adhere to the principle that the Customs Administration must be able to carry out effective and efficient (system-based) audits, now and in the future.

In assessing the AO/IC of the company the auditor takes into account the fact that the requirements of the AO/IC will become stronger to the degree that the immediate supervision (physical and documentary checks) of the Customs Administration becomes more lenient.

In assessing and describing the AO/IC the auditor takes into consideration the general and procedural aspects. The following aspects should be evaluated:

- business activities;
- corporate structure;
- internal organisation and monitoring system;
- the accounting and logistical systems and IT environment and
- factors affecting the basis for duties and excises.

The procedures to be evaluated include:

- procedures concerning the value cycle (goods- and money flow);
- procedures concerning the 'master files';
- procedures concerning (periodic) returns¹⁷ and
- Procedures concerning the analysis and evaluation of the monitoring results on the relevant business processes and how necessary improvement actions are implemented en documented.

During the pre audit the relevant processes are analysed and the indicated risks are assessed and evaluated. As a support of the decision-making process the Compact framework¹⁸ is used. This decision model includes an overview of Risk Indicators

¹⁷ Local clearance on import

¹⁸ In a benchmark in the early years 2000, Sweden and the Netherlands have developed with 6 other Member States a working method called Compact Framework. In this methodology the practical way of working in Sweden and the Netherlands was incorporated and also tested in practice within two multinational companies.

for Operators. Special attention is paid to the economic operator's monitoring system for controlling the business processes. The monitoring system of the economic operator has in principle several phases:

- Risk assessment on business activities
- Creating a control environment in relation with the assessed business risks
- Execute the designed and planned control activities
- Use the measured results of the control activities to inform the involved management and
- Communicate the measures taken to improve the processes if necessary.

The results of this economic operator's monitoring process can be of high value for the customs system based approach of course depending on the maturity level of the management of customs related business processes.

The outcome of the assessment and evaluation enables customs to establish:

- the type and level of facilitation/simplification;
- the type and frequency of the future mix of control and audit measures and
- a (quality) indication of the available monitoring information.

3.3. Risk management (on operator level)

Under the client management approach the establishment of client managers for the individually controlled economic operators and relation managers for the group controlled economic operators (Small and medium enterprises) is essential. The distinction between individual and group control is based on several factors, combined in a weighting procedure. Client managers and relation managers are responsible for implementing the economic operator treatment and co-ordination of activities.

Several tasks are connected with these co-ordination functions:

- Contact point for direct communication and exchange of information between Customs and the economic operator;
- Continuous monitoring and compliance measuring on a regular basis, based on economic operators monitoring information, risk information (on goods) and the results of regular customs controls;
- Risk management on economic operator level combining general risk information on goods with economic operator related risk indicators;
- Decision taking about granting customs authorisations;
- Audit planning in combining future audit and control activities (control mix). In fact an efficient mix of:
 - - Physical checks;
 - - Documentary (declaration) checks and
 - -Ex post audits.
- File keeping;
- Internal periodic update of the Customs economic operator information system (with historical qualitative -compliance- and quantitative economic operator information ;
- Starter co-ordination, meaning monitoring during the initial phase of newly granted authorisations (several months).

The checklists, used in the Netherlands, were incorporated in the Risk indicators for Operators as a part of the decision process for issuing customs simplifications and economic procedures. The list of Risk indicators on Operators is a part of the current AEO-guidelines. Recently this list has been updated and introduced in the European Union as the Self Assessment Questionnaire (SAQ).

3.4. Ex Post audit

The goal of an ex post audit regarding an economic operator is to determine the acceptability of the customs declarations and the compliance with regards to non-fiscal issues all related to international import, transport, warehousing, manufacturing or export of customs goods. This audit also includes compliance with the conditions in the authorisation and compliance with working arrangements.

The added value of the ex post audit is obtaining assurance about:

- the completeness and correctness of the customs declarations and formalities;
- the level of compliance with non fiscal requirements and
- to be able to plan a well-founded control programme for the future.

In the ex-post audit process (system-based approach), the following phases are recognized:

- The announcement of the audit;
- Pre-planning (exercise of):
 - Understand the business and obtain background information
 - Obtain an understanding of internal control and monitoring environment;
 - Set materiality and assess audit risk and inherent risk
- Develop overall audit plan and audit program
 - Plan to reduce level of control risk
- Perform the audit;
 - Test of controls
 - Substantive tests of transactions
 - Perform analytical procedures and test of details
- Evaluate results
- Complete the audit and grant an audit report

It is for the auditors' judgement to decide which audit methods and techniques are effective in a particular situation. The standard audit approach is a system-based approach.

This implies that the pre-audit results and conclusions are guiding for the planning of the audit work. Knowledge of the administrative organisation and the existing internal control measures and the monitoring systems of the economic operator is crucial and decisive for optimisation of the mix of system based and data oriented (detailed) audit activities. The more knowledge there is of (the quality of) the internal control systems and the outcome of the monitoring activities of the economic operator, the better the risk assessment can be performed. And the more effective the ex post audit will be.

The same effect can be expected from the Customs policy to use the audit and control results of other governmental and external audit bodies as long as there are mutual objectives.

The higher the quality of the economic operator's internal control and monitoring system the less data oriented audit (time consuming) activities are necessary to draw a final and grounded conclusion.

The use of statistical sampling methods during the audit is highly recommended, especially in situations where a large volume of transaction data has to be audited. The necessary risk analysis to determine the strengths and the weaknesses of the economic operator's tax and customs control framework is supported by the compact working method. In this method, risk indicators on goods and on the economic operator are combined and assessed.

ANNEX XIV FREQUENTLY ASKED QUESTIONS

1. What are the benefits of the simplified procedures?

The main benefits from the use of SP are the following:

- reliable and permanent contact between customs and the economic operator;
- faster customs clearance;
- a reduction in costs (for instance, if transit can be avoided or if the presentation of the goods can be done at another place than the customs office);
- a better knowledge of customs regulations and possibilities offered to economic operators.

With SP, an economic operator can be authorised to release the goods faster by a combination of simplifications like:

- presentation of the goods on the premises of the economic operator,
- less data lodged with customs before release of the goods (notification or simplified declaration),
- lodgement before presentation of the goods,
- fewer physical and documentary checks before release than in standard procedure,
- Customs have access to the customs declaration data and to the supporting documents on request,
- if checks are performed, they can be carried out on the premises of the economic operator,
- replacing the transaction-based approach by an audit-based approach, in which checks are planned periodically during audits.
- a single lodgement of all the customs declaration data in supplementary declaration(s) at the end of a pre-defined period,

2. What are the most recent legal changes regarding SP/SASP?

Regulation (EC) No. 1192/2008 harmonised and simplified the processes of application for and the granting of authorisations, both for national SP and for SASP.

It introduced two main advantages:

1) Simplification of the administrative formalities

Applications for SP/SASP will be transmitted to customs on the form appearing in Annex 67 of the CCIPs (as amended by Regulation No. 1192/2008), which was already used for applications for CPEI. For guidance on filling in the application, please use the explanatory notes (pages 49 to 51 of Regulation (EC) No. 1192/2008, see OJ L No 329, 6.12.2008).

2) Alignment of conditions and criteria with those for AEO

For instance, SDP shall be granted, provided that the conditions and criteria of AEOC or AEOF are fulfilled (laid down in Article 14h, with the exception of paragraph 1(c), and in points (d), (e) and (g) of Article 14i and Article 14j). The purpose of this alignment is to avoid for AEO that the criteria have to be examined a second time.

3) Introduction of SASP

3- What are the Simplified Procedures allowed under SASP?

The Simplified Declaration Procedure (SDP) and the Local Clearance Procedure (LCP) are both allowed under SASP.

Economic operators can use either of these two simplified procedures in order to release goods for free circulation, for export or for a CPEI.

Under SASP, an economic operator is also authorised to declare goods with a minimum of information before release of the goods, followed by periodic supplementary declarations, which are always lodged with the authorising MS.

3a- Can the customs procedures with economic impact (CPEI) be allowed under SASP?

CPEI can be used if the required authorisation is in place either at national level or covering several MS if the customs procedure is used in the participating MS.

Integrated authorisations or Integrated single authorisations as defined in point 1.II.4 of the guidelines can then be granted.

3b- Is a SASP authorisation always needed with a CPEI authorisation if the CPEI is used in more than one MS?

No, the economic operator will apply for a single authorisation for a CPEI involving more than one MS but a SASP is not needed if entry for and discharge of the CPEI are done in only one of the MS concerned.

For instance, where an authorisation for a CPEI is used in one MS (i.e. both entry for the procedure in question and the discharge of the procedure is carried out in that Member State), but a part of the operation (e.g. a part of the processing in case of inward

processing, or a temporary removal from a customs warehouse) is performed in another MS, only a single authorisation for CPEI is required.

The customs authorities of the MS where the goods are processed are aware of it since it is part of the SA for CPEI.

4- How are applications for SP by multi-national traders or large businesses handled?

1. *How do we handle cases where a branch of company, which is not a person according to Article 4 (1) CC, wants to get an authorisation for a simplified procedure and the company itself and the accounts are situated in another MS?*

In Article 253 (4) CCIP states that "any **person** may apply for an authorisation for the simplified declaration or the local clearance procedure..." As the branch is not a person, there is a problem. The company could apply (for a SASP in the MS where it is established or for a national SP in the MS where the branch is), but not a branch without the required status. A company established outside the EU can only apply for a SP if it has a permanent business establishment in the EU (Article 4(2) CC).

2. *Can branches which are not legal entities and are located in different MS apply for an authorisation?*

No, only a legal entity can apply. The legal entity can apply, either for a national SP in the MS where the branch is located, or for a SASP in the MS where it is established itself, if it needs to put in place an authorisation with more than one MS.

The MS where the application is to be lodged is laid down in Article 14d CCIP.

3. *In case of application of the parent company for one branch in MS B and if the records and accounts are in the MS A where the parent company is established, how are they controlled?*

If a SASP is applied for, the records are to be accessible in the authorising MS A. For the monitoring of the procedure, the exchange of information can be planned between the authorising MS A and the participating MS B.

If a national SP is applied for in MS B, the records have to be accessible in the authorising MS B. The latter may need to ask the MS A where the accounts are located for cooperation in controls of the accounts, and other criteria to be fulfilled.

3a. *In what way should this consultation take place? How do we handle the audit of the accounts in another MS?*

When the accounting system is only accessible in the MS A where the company is established, the Mutual Assistance Procedure (Article 4 of Regulation (EC) No. 515/1997) can be used for these controls. Under SASP, the audit should be planned in the joint control plan, which is part of the consultation procedure between MS.

3b. *In what way should the records be made accessible?*

Please refer to AEO guidelines section 2.I.2 (b) for explanations on the different means of access to the company's records.

4. What kind of SP can be envisaged if the records and accounts are accessible only in the MS of the parent company?

In this case, only SASP can be envisaged, in the MS where the parent company is established. No national SP in the MS where the branch is established can be accepted.

5. What kind of application should be submitted when the flow of goods is only in the MS of the branch company?

From a theoretical point of view, it would be better to submit a national application where the flow of goods is. But, in practice, the flow of goods is not decisive. If the records are in the MS where the parent company is established, a SASP could be envisaged.

5- Why is it recommended to fill in the self-assessment questionnaire when applying?

It is recommended to fill in the SA questionnaire in order to facilitate the process, which should run more smoothly.

From the economic operator's perspective, he can see at an early stage what is expected from him. From customs' point of view, it helps in the gathering of information on the applicant and carrying out the pre-audit.

6- How SMEs' specificities are taken into account during the examination of the application?

No separate conditions and criteria exist. The applicant's size and activities are taken into account in assessing compliance with the requirements. For example, if only one person in the company deals with customs formalities, then staff communication is not relevant.

If the company deals only with one customs procedure or one type of goods, then customs knowledge to be assessed is more limited.

7- What is checked in addition to AEO conditions and criteria during the SP (including SASP) pre-audit process?

The following aspects can be considered as specific to SP:

- The place where the goods are unloaded and presented to customs in case of control (security of the premises and internal rules for inventory of those goods...)
- Representatives or declarants for the use of SP

- The form of the simplified declaration
- The deadlines for the lodgement of the simplified declaration
- Reconciliation between the simplified declaration or notification and the supplementary declaration
- The form of the notification in case of LCP
- Justifications for notification waiver
- Notification on request in case of notification waiver
- The time-period before release of the goods if applicable
- Form and content of the records
- Link between SP records and the accounting system.
- Specific guarantees, if applicable
- Use of deferred payment

8- What is an approved place as mentioned in Article 253.3 CCIP ?

The approved place as mentioned in Article 253(3) CCIP is where the goods are stored until customs decide to control them or release them and during customs controls. According to the nature of the goods, it can differ. But in any case, it has to be suitable for the goods concerned and facilitate controls. Any necessary tools or equipment needed for the customs control shall be accessible in the approved place. The place concerned has to be safe and properly identified.

A visit of the place before the approval is strongly recommended to check the information received on this place.

9- Under SASP, can an economic operator centralise Import VAT and statistical requirements in the authorising MS?

No, Import VAT and statistics remain national requirements under SASP and are dealt with by the MS where the goods are physically imported or exported. It may therefore be advisable for an applicant to contact the Customs administration(s) in the Participating MS to ascertain their Import VAT and statistical requirements.

For more information regarding the VAT and statistical requirements of the various participating MS, please see Annex III of the guidelines.

10- Can I use customs procedure code 42 in the framework of SP?

Yes, as long as criteria for the use of the customs procedure code 42 are met, an economic operator can use this procedure code in order to move the goods from the MS of release for free circulation to the consignee's facilities established in another MS.

In this case, the rules governing customs procedure code 42 are followed. The importer's name and VAT identification number as well as the VAT ID number of the consignee in another MS shall also be provided in the customs declaration, as laid down in Council Directive 2009/69/EC. These rules also apply in cases where the importer is also the consignee established in the other MS.

In addition to the customs declaration and the invoices, the importer shall be obliged to provide to the tax authorities of the MS of importation a recapitulative statement disclosing inter alia the VAT ID numbers of the consignees to whom the goods were transported.

If a representative is acting on the economic operator's behalf (direct representation), the fiscal representative will be responsible for the VAT formalities.

If you are a company established outside the EU, you must appoint a fiscal representative in the MS where you carry out the economic activity (the importation or the intra-Community acquisition). Specific issues concerning the scope of activities of a tax representative are regulated by the national legislation of each MS.