THE AUTHORISED ECONOMIC OPERATOR – EXTERNAL GUIDE & PROCEDURE

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1. ACRONYMS & ABBREVIATIONS

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| **AEO** | Authorised Economic Operator |
| **AEO-C** | Authorised Economic Operator-Compliance  |
| **AEO-S** | Authorised Economic Operator-Security and safety |
| **ASYCUDA** | Automated System for Customs Data |
| **CIP** | Compliance Improvement Program |
| **CRM** | Client Relationship Manager |
|  |  |
| **ERS** | Eswatini Revenue Service |
|  |  |
| **MOU** | Memorandum of Understanding |
| **MRA** | Mutual Recognition Agreement |
| **OGA** | Other Governmental Agency |
| **PCA** | Post Clearance Audit |
| **POC** | Point(s) of Contact |
| **PT** | Preferred Trader |
| **SACU** | Southern Africa Customs Union |
|  |  |
| **TIN** | Taxpayer Identification Number |
|  |  |
| **VOC** | Voucher of Correction |
| **WCO** | World Customs Organisation |
|  |  |

1. DEFINITIONS
2. **Authorized Economic Operator (AEO):**

An “Authorized Economic Operator (AEO)” means a participating operator involved in the international movement of goods in whatever function that has been approved by Customs administration as complying with WCO or equivalent supply chain security standards. AEOs may include, inter alia, manufacturers, importers, exporters, Customs agents/brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors, and freight forwarders.

1. **AEO – Customs Compliance (AEO - C)**

The status granted to an economic participating operator who fulfils the criteria of compliance to all tax types administered by the ERS, maintains appropriate record keeping standards, is financially solvent and demonstrates customs competence or has relevant professional qualifications in the field of customs.

1. **AEO – Security and Safety (AEO - S)**

The status granted to an economic participating operator who fulfils the criteria of compliance to all tax types administered by the ERS, maintains appropriate record keeping standards, is financially solvent and demonstrates customs competence or has relevant professional qualifications in the field of customs. and in addition, maintains appropriate security and safety standards in relation to management of supply chain activities. Such an entity is called upon to take adequate measures to secure their business in order to be a reliable actor in the international supply chain from the revenue administration perspective, business partners as well as other regulatory requirements relating to international trade.

1. **Authorization:**

“Authorization” means recognition by ERS of AEO status (AEO-C or AEO - S) within the framework of the AEO programme, which is endorsed by the Commissioner General. authorization is based on a structured methodology that is undertaken in order to determine compliance with the core international standards of the SAFE Framework that may include activities such as the review of an applicant’s submitted documentation, verification of the existence of the controls related to the qualification criteria, conduct of a physical worksite visit to confirm assets and security processes.

1. Compliance Improvement Program-

A plan or schedule of activities that is developed jointly between the ERS and the applicant who may not have fully met the qualification criteria. It highlights the areas of improvement and activities that will be undertaken by the applicant in order to address gaps noted during the verification procedures. The CIP is time bound and must be endorsed by both parties to endorse the corrective measures agreed to and the implementation timelines.

1. **Economic Operator**

“Economic Operator” means a person/entity who, in the course of his business, is involved in activities covered by ERS administered legislation.’ Economic operators include inter alia manufacturers, importers, exporters, clearing agents, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors”.

1. **Point (s) of Contact (POC):**

An Economic operator’s designated local contact person or a liaison person whose role is to facilitate prompt access to required information for all matters identified as being relevant to the compliance verifications, an applicant’s authorisation and are of enforcement interest to the ERS.;

1. **SAFE** - the SAFE Framework of Standards to Secure and Facilitate Global Trade sets forth the principles and the standards and presents them for adoption as a minimal threshold of what should be done by WCO Members in order to secure and facilitate global trade.
2. **Validation:**

The procedures whereby the supply chain of an AEO, and all relevant processes employed by them within the context of supply chain management, are subject to a comprehensive and transparent review by a revenue administration and/or a Customs-designated third-party validator.

1. INTRODUCTION

The Authorised Economic Operator programme (AEO) is an initiative that is intended to enhance the security of international supply chains and strengthen Customs to Business partnerships. The Programme is based on international best practices and thus provides a structured framework for customs and tax administrations to recognise and facilitate operators that demonstrate a high level of compliance and have put in place adequate systems to monitor adherence to safety criteria and adherence to regulatory requirements. In an effort to align and fulfil regional and international agreements and obligations, the Eswatini Revenue Service (ERS) has also adopted this programme. The programme enables the ERS to respond to the increasing volume of trade and advancements in the use of information technology and systems in commerce which require new approaches in order to effectively execute its regulatory role without negatively impacting on the cross-border movement of legitimate trade.

Participation in the AEO programme is open to the various entities that are involved in global trade such as importers, exporters, customs freight forwarding / shipping agents, customs brokers/ clearing agents, manufacturers and warehouse operators. Under the programme these entities can apply for authorisation as economic operators in either of the two categories, namely compliance to all tax types (AEO-C) or security and safety (AEO-S) and thus be accorded preferential treatment according to the benefits relevant under each category of authorisation.

Any business that is duly registered as per the laws relating to company registration in the country can apply for AEO status, irrespective of size. The business entity should also be registered for tax purposes and have been issued with a Taxpayer Identification number (TIN) by the ERS.

Applicants can include a broad range of businesses whose operations are subject to ERS controls and form part of the international supply chain for example, manufacturers, importers, exporters, freight forwarders, warehouse keepers, Customs clearing agents and carriers.

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1. REQUIREMENTS TO BE MET BY THE AUTHORIZED ECONOMIC OPERATOR

**A**. **Demonstrated Compliance with ERS Requirements**

ERS shall consider the demonstrated compliance history of a prospective AEO when considering the request for AEO status.

This element requires that the applicant should:

1. not have committed, over a period of two years any offence as provided for in Section 80 of the Customs & Excise Act.
2. have been in operation for a period of two years and has records available to confirm this during the application process;
3. demonstrate a record of compliance with other government agencies

**B. Satisfactory System for Management of Commercial Records**

The applicant shall maintain timely, accurate, complete and verifiable records relating to importation and exportation of goods. Maintenance of verifiable commercial records is an essential element in the security of the international trade supply chain.

This element requires that the applicant should:

1. maintain records systems which permit ERS to conduct any required audit of cargo movements relating both to import and export;
2. give ERS full access to required records, subject to the requirements of national legislation;
3. have internal records access and control systems which are satisfactory to ERS;
4. appropriately maintain and make available to ERS any authorizations, powers of attorney and licences relevant to the importation or exportation of goods;
5. within any limitations provided in national legislation, properly archive records to enable submission to ERS when required;
6. make use of adequate information technology security measures which will protect trade records against access by unauthorized persons.

**C. Financial Viability**

Financial viability of the applicant is an important indicator of an ability to operate as a going concern, meet any financial obligations that may arise and maintain or improve upon measures to secure the supply chain.

This element requires that the applicant should have a good financial standing which is sufficient to fulfil its commitments with regards to the characteristics of the type of business activity.

**D. Information Exchange, Access and Confidentiality**

This element requires that the applicant should:

1. have appropriate procedures in place to ensure that all information used in the clearing of merchandise/cargo is legible, complete and accurate and protected against the exchange, loss or introduction of erroneous information. Similarly, that AEO carriers have procedures in place to ensure the information in the carrier’s cargo manifest accurately reflects the information provided to the carrier by the shipper or its agent, and is filed with ERS in a timely manner;
2. have a documented information security policy and procedures and/or security-related controls, such as firewalls, passwords, etc., in place to protect the AEO.s electronic systems from unauthorized access;
3. have procedures and back-up capabilities in place to protect against the loss of information.

**E. Cargo Security**

This element requires that the applicant should:

1. develop and maintain a security policy manual or other tangible guidance by making relevant reference to the security-related guidelines issued by the WCO which contains detailed guidelines on procedures to be followed to preserve the integrity of cargo while in its custody;
2. ensure that it and/or its business partners in the supply chain with sealing responsibilities have written procedures in place to properly seal and maintain the integrity of the shipment or transport conveyance while in its custody;
3. ensure that it and/or its business partners employ the use of seals that meet or exceed the then-existing ISO Standard;
4. ensure that written procedures are developed and utilized that stipulate how seals are to be controlled and affixed to loaded containers, to include procedures for recognizing and reporting compromised seals and/or containers to the revenue administration or the appropriate foreign authority;
5. for integrity purposes, ensure that only designated personnel distribute container seals and safeguard their appropriate and legitimate use;
6. have procedures for inspecting the structure of the transport conveyance including the reliability of the access controls. When appropriate to the type of conveyance a seven-point inspection process is recommended:
* Front wall
* Left side
* Right side
* Floor
* Ceiling/roof
* Inside/outside doors
* Outside/undercarriage;
1. regularly examine, through particular mechanisms set forth in the national AEO programme, its security and control procedures to ensure that it is difficult for unauthorized persons to gain access to cargo or for authorized persons to manipulate, move or handle it improperly;
2. store cargo and transport conveyances in its custody in secure areas and have procedures in place for reporting detected unauthorized entry to cargo and transport conveyance storage areas to appropriate law enforcement officials;
3. verify the identity of the carrier collecting or delivering cargo and transport conveyances where existing business processes permit and, in the case of there being no such authority, act to promptly achieve such mandate;
4. where feasible, compare the cargo with its description on the documents or electronic information to be submitted to ERS for consistency;
5. establish procedures to manage and control cargo within the cargo storage facility;
6. establish procedures to positively control all cargo being removed from the storage facility;
7. establish procedures to manage, secure and control all cargo in its custody during transport and while loading into or unloading from a transport conveyance.

**F. Conveyance Security**

This element requires that the AEO:

1. ensure, to the extent and scope of its authority and responsibility, that all transport conveyances used for the transportation of cargo within its supply chain are capable of being effectively secured;
2. secure transport conveyances within its supply chain, to the extent and scope of its ability and responsibility, when left unattended, and check for security breaches upon return;
3. ensure, to the extent and scope of its authority and responsibility, that all operators of conveyances used for the transportation of cargo are always trained to maintain the security of the transport conveyance and the cargo while in its custody;
4. require operators, as specifically detailed in national AEO programmes, to report any actual or suspicious incident to designated security department staff of both the AEO and ERS for further investigation, as well as to maintain records of these reports, which should be available to Customs, as legal and necessary;
5. consider potential places of concealment of illegal goods on transport conveyances, ensure that these places are regularly inspected, and secure all internal and external compartments and panels, as appropriate. Records are to be made and maintained following such inspections, indicating the areas inspected;
6. notify Customs, or other relevant body, of any unusual, suspicious or actual breach of transport conveyance security.

**G. Premises Security**

This element requires that the AEO:

1. in accordance with its business model and risk analysis, implement security measures and procedures to secure buildings, as well as monitor and control exterior and interior perimeters and prohibit unauthorized access to facilities, transport conveyances, loading docks and cargo areas that may reasonably affect the security of its areas of responsibility in the supply chain. If access control is not possible, increased precautions in other security aspects may be needed. Premises security should include the following, as appropriate and based on risk
* Buildings must be constructed of materials that resist unlawful entry.
* The integrity of structures must be maintained by periodic inspection and repair.
* All external and internal windows, gates and fences must be secured with locking devices or alternative access monitoring or control measures.
* Management or security personnel must control the issuance of all locks and keys.
* Adequate lighting must be provided inside and outside the facility including the following areas: entrances and exits, cargo handling and storage areas, fence lines and parking areas.
* Gates through which vehicles and/or personnel enter or exit must be manned, monitored or otherwise controlled. The AEO should assure that vehicles requiring access to restricted facilities are parked in approved and controlled areas, and that their licence plate numbers are furnished to ERS upon request.
* Only properly identified and authorized persons, vehicles and goods are permitted to access the facilities.
* Appropriate peripheral and perimeter barriers.
* Access to document or cargo storage areas is restricted and there are procedures to challenge unauthorized or unidentified persons.
* There should be appropriate security systems, such as, theft alarm and/or access control systems.
* Restricted areas should be clearly identified.
1. as required or upon request, provide ERS with access to security monitoring systems that are utilized for premises security.

**H. Personnel Security**

This element requires that the AEO:

1. take all reasonable precautions when recruiting new staff to verify that they are not previously convicted of security-related, revenue or other criminal offences, to the extent permitted by national legislation;
2. conduct periodic or for cause background checks on employees working in security sensitive positions;
3. have employee identification procedures, and require that all employees carry proper company issued identification that uniquely identifies the individual employee and organization;
4. have procedures in place to identify, record and deal with unauthorized or unidentified persons, such as photo identification and sign-in registers for visitors and vendors at all points of entry;
5. have procedures in place to expeditiously remove identification, premises and information systems access for employees whose employment has been terminated.

**I. Trading Partner Security**

This element requires that the AEO:

1.
2. if necessary, when entering into negotiated contractual arrangements with a trading partner, encourage the other contracting party to assess and enhance its supply chain security and, to the extent practical for its business model, include such language in those contractual arrangements. In addition, the AEO is to retain documentation in support of this aspect to demonstrate its efforts to ensure that its trading partners are meeting these requirements and make this information available to ERS upon request;
3. review relevant commercial information relating to the other contracting party before entering contractual relations.

**J. Crisis Management and Incident Recovery**

In order to minimize the impact of a disaster or terrorist incident, crisis management and recovery procedures should include advance planning and establishment of processes to operate in such extraordinary circumstances.

This element requires that the AEO:

1. develop and document, in conjunction with the appropriate authorities, where advisable or necessary, contingency plans for emergency security situations and for disaster or terrorist incident recovery;
2. include periodic training of employees and testing of emergency contingency plans.
3. COMPLIANCE IMPROVEMENT PROGRAM

In the event an interested operator does not fully meet the above set criteria to qualify for accreditation both the ERS and operator can agree on a compliance improvement programme. The CIP shall be discussed and agreed to between the trader and ERS. The timeframe for implementation and monitoring intervals for reviewing the trader’s improvement shall be six months upon conclusion of the audit.

A compliance improvement programme (CIP) may be recommended in relation to observed gaps noted / picked up during the verification procedures in order to assist applicants who do not fully meet the qualification criteria or are found to be failing to continue to meet the authorization criteria during subsequent maintenance or follow- up verifications.

The following are the main elements of the CIP:

* 1. **Internal Systems and Controls**- Based on the systems audit recommendations, the trader shall take responsibility for developing systems, controls, written policies and procedures required for authorization
	2. **ERS administered Legislation** – ERS shall educate the trader on the general principles, structure and interpretation of the ERS administered legislations and its regulations. Awareness shall also be made on supporting guidance materials such as ERS Rulings. Sourcing, update and maintenance of these materials shall also be part of the education.
	3. **ERS Valuation** – Traders shall be educated on the general valuation methods, with emphasis on the transaction value method and its elements. They shall be advised about the necessary documents and accounting systems that are required to support and substantiate the transaction value valuation method. They shall further be advised about the necessity to maintain procedures for declaring correct ERS value in related party transactions.
	4. **Classification**- They shall be educated on the general classification principles and interpretative rules. This includes development of charts of HS codes for the traders’ usual imports and exports to be used as a guide.
	5. **Origin-** They shall be educated on the general origin principles and specifically on those they are exposed to. Maintenance of necessary documentation to substantiate each claim should be emphasized.
	6. **Quantity-** they shall be educated on the need to declare quantities of their imports and exports in accordance with the HS units of measure for each respective product. This can be included in the chart indicated under HS classification guidelines.
	7. **Exemptions -** Awareness on existing exemptions and respective procedures for claiming them. Maintenance of necessary documentation to substantiate each claim shall be emphasized to facilitate future audit.
	8. **Completion of the Declaration Documents**-Traders shall be walked through the various elements of the customs declaration, emphasizing the correct interpretation and filling of each field and the respective source document.
	9. Compliance to Domestic taxes obligations- traders shall be educated on registration compliance, on-time filing compliance, on-time payment compliance and correctness & accuracy of returns filing.
	10. **Entry Management** - Traders shall be advised of the appropriate stage in their purchasing cycle that they should trigger preparation for customs declaration to assure timely clearance. It shall also be emphasized that they should make declarations on Customs Management System (ASYCUDA) and therefore, it is their responsibility to ensure that all entries under their account and whichever procedure are validated, monitored and cleared within respective statutory due dates. ASYCUDA account management lessons should be given.
	11. **ASYCUDA Functionality and Reports -** AEOs should be encouraged to connect to ASYCUDA for effective management of their transactions. If need be, lessons on the access, functionality and applicable procedure codes shall be provided.
	12. **Performance of Clearing Agent’s -**AEOs must be aware that they will be held responsible for any work done by clearing agents on their behalf as well as any errors on customs declarations. Therefore, traders should be encouraged to document all instructions communicated to clearing agents in the facilitation of customs clearance and be taught to conduct risk-based review of its declarations.
	13. **Error Logs and Voluntary Disclosure** - AEOs shall be advised to develop procedures to log detected errors and adjust their internal systems and controls to prevent recurrence. They should also develop procedures for voluntary disclosure of errors ERS.
	14. Other Government Agency (OGA) Requirements- AEOs shall be advised to develop procedures that identify other regulatory requirements for their products and ensure that their systems trigger timely acquisition of necessary authorizations to facilitate timely clearance at the border.

5.OBLIGATIONS FOR THE ERS

1. To conduct education and awareness activities for the traders in order to continuously promote compliance to AEO.
2. To ensure that compliant and legitimate transactions are facilitated, and the required services provided within the appropriate control mechanisms.
3. To engage in regular consultation at all relevant levels with all parties involved in the international supply chain to discuss matters of mutual interest, including customs regulations, procedures and requirements for premises and cargo security;
4. To conduct specific training to assist personnel in maintaining cargo integrity, recognizing potential threats to security and protecting access controls;
	* upon request and if practicable, make an AEO familiar with relevant ERS information and processes, in order to assist in appropriate training and research;
	* familiarize the appropriate AEO staff with relevant requirements of ERS electronic communication systems, and establish specific reporting systems for last-minute consignments and amendments;
5. To establish, in consultation with an AEO or its agents, procedures to be followed in the event of queries or suspected ERS offences;
6. To provide the right of appeal to the AEO under the legal provisions;

6 OBLIGATIONS FOR THE AEO

Once an operator has been accorded the AEO status, it is expected that they will be responsible for ensuring adherence to the applicable legislation and maintaining the standards and requirements in order to qualify for the authorization status.

The role of the AEO as partners of the ERS Administration includes proactively managing supply chain risks on behalf of Customs.

AEOs are now required to work with bona fide partners, who reflect high standards of compliance with relevant laws and regulations. This implies the following:

1. The AEO should be aware of the compliance levels of their trading partners such as importing traders as well as ERS agents and operators, (which includes road hauliers and freight forwarders involved in the conveyance), etc.
2. Where the AEO is concerned with the competency or compliance levels of any of its supply chain partners, it should engage that agent or operating partner to address the issue, inform the ERS and seek advice
3. Any errors made by third parties acting on behalf of the applicant reflect upon the trader. The trader should therefore be aware that it is important that third parties that act on their behalf are competent and will adhere to the standards that they are expected to operate under. These should be given clear instructions to ensure that they also have adequate systems and controls to ensure that problems are prevented, immediately identified or resolved and disclosed in time.
4. Engage the relationship manager to inform the ERS Administration if there are significant changes in the information provided to ERS in the authorization process, such as the contact persons, their trading partners/supply chain
5. Once an error has been identified, the trader is expected to take steps to ensure that they do not happen again or, at least, to ensure that they are immediately remedied if they do arise.

7. BENEFITS TO THE AUTHORIZED ECONOMIC OPERATOR

1. **Expedited import/ export clearance:**
	1. AEO declarations shall be expedited through the auto release function
	2. Goods shall be released without physical inspections where no risks are detected for whole AEO consignments (i.e. manifest shows that all goods carried belong to AEO . This will apply on consignments where the transport unit used is sealed / secured from the point of loading.
	3. The processing of trucks or any other conveyance of goods belonging to AEO at the border shall be allocated to an express counter/lane designated for this purpose.
2. **Flexible inspection arrangements:**
	1. In case an AEO declaration is selected for inspection, flexible inspection arrangements shall apply where the whole load is consigned to AEO only, not mixed with non- AEO consignments
	2. The AEO shall be given priority (first in line) in the event their consignment is selected for control
	3. The border managers shall engage the AEO to agree on a convenient site at which a required physical examination of AEO consignments can be carried out.
3. **Nominal bonds:**
	1. Security required for all suspense procedures (e.g. temporary importations, transits and warehousing operations) shall be reduced from the standard rate
	2. Bond rate/ amount will be determined by Commissioner on a case by case basis
4. **Client Relationship Manager (CRM)-** in order to be able to deliver best service to the AEOs, they shall be given a CRM whois the person who shall manage the relationship between ERS and the AEO, by creating a relationship with the trader – built on transparency, predictability and trust.

The tasks include:

1. Serving as first point of contact for queries made by the client
2. Maintain a log of complaints/queries and resolution thereof
3. Liaise with relevant sections to resolve client challenges
4. Organize client specific (personalized) awareness/educational programs
5. Avail latest Rulings/Customs guidance materials to the AEO
6. Coordinate the compliance improvement program agreed to between ERS and the AEO
7. **Import VAT deferment:**

Upon full implementation of the program, applicants who will be considered for eligibility to be granted use of the deferment account for paying import VAT and other national levies will be limited only to those who have been admitted under the accreditation program as well as VAT registered entities;

1. **Admission to program for enhancing customs knowledge / skills of personnel dealing in the company’s customs related processes**
	1. Operator will advise customs on personnel designated to deal with the company’s customs reporting responsibilities.

b. Upon request from AEO the ERS will arrange for an abridged training for newly recruited personnel who will work in tasks that have customs reporting responsibilities.

1. **Fast tracked processing of applications on all ERS facilitated procedures.**

Processing of AEO applications / requests for all internal procedures shall be prioritized and finalized within shorter time periods than applications submitted by regular clients. This shall include:

* + 1. Issuance of advance rulings;
		2. VAT refunds
		3. Objections

8.MONITORING

Monitoring of AEO traders shall be done through periodic ‘follow- up’ maintenance compliance audits. This may include post clearance, anti-smuggling spot checks to ensure that the trader continues to meet the level of compliance required for authorization status. Monitoring results may trigger a re-assessment of the status if certain anomalies are picked up.

A re-assessment or a re-evaluation of a part or all criteria that an economic operator has been deemed to have met may be undertaken if there are major changes in legislation, the entity’s operations or where major risks have been identified during monitoring process.

9.SUSPENSION/REVOCATION

The AEO’s authorization certificate may be suspended in any of the following cases:

1. Where non-compliance with the conditions or criteria for authorization has been detected and no remedial steps have been taken.
2. Where there is enough reason to believe that an act liable to give rise to criminal court proceedings and linked to an infringement of ERS rules has been perpetrated by the AEO.
3. Where the AEO fails to pay any duty, tax or other amount due to the Commissioner General
4. Upon request of the AEO

The suspension period shall be ninety (90) calendar days. The Commissioner General may extend the period of suspension.

During the suspension period, the AEO and ERS shall meet in order to jointly analyse the causes of the non-compliance. Furthermore, the parties shall make recommendations to address the potential weaknesses of the trader and/or the risks to customs and tax requirements or procedures.

Within the period of suspension, the trader and ERS shall jointly evaluate if the recommendations have been applied and if the level of compliance as demonstrated by the trader is satisfactory to qualify for re-activation of the authorization status.

At the end of the suspension period, ERS shall provide officially the decision of revoking or re-activating the authorization status of the trader.

An Authorization certificate shall be revoked in the following circumstances:

1. the trader acquired the certificate under false pretences
2. where the authorization certificate has already been suspended and the trader fails to take the necessary remedial action to have the suspension withdrawn within 30 calendar days starting from the date of suspension;
3. where the trader has committed serious infringements relating to ERS rules and has no further right of appeal
4. where the trader requested that their authorization is suspended, and they fail to take the necessary remedial action to have the suspension withdrawn
5. where the trader requests that their authorization be revoked

Once revoked, the trader will not be eligible for applying for authorization for another two (2) years.

10. EXPIRY OF AEO CERTIFICATE

The Certificate of Authorization shall be valid as per timelines indicated in legislation or upon revocation . The Authorised Economic Operator shall apply for renewal of the certificate at least three months before the expiry date. This will allow re-evaluation of a part or all criteria for the qualification of an Authorised Economic Operator status.