



SARS-PS-AEO-G

AEO COLLABORATIVE
STAKEHOLDER GROUP

SARS and Private Sector



SARS-PS-AEO-G: AEO STAKEHOLDER ENGAGEMENT

SARS and Private Sector

Contents

1. Background.....	3
2. Core Ideology	4
3. Membership	5
4. Purpose and Scope.....	6
5. Key Deliverables.....	7
6. Chairperson.....	8
7. Operational Structure	9
8. Meeting Proceedings.....	10
9. Conflict of Interest.....	11
10. Resources Required	11
11. Measurement of Performance:	11
12. Training Matrix and Focus Areas:.....	12
13. Looking Ahead	13
A. WCO – AEO Criteria Structure Applicable to Self-Assessment Questionnaire	14
B. Definitions and Acronyms, References and Legislation.....	16

SARS-PS-AEO-G

Terms of Reference for the SARS Private Sector AEO Collaborative Group (SARS-PS-AEO-G)

1. Background

The relationship between policymakers and lobbyists and the logistics/supply chain industry has been characterised by years of division and mistrust. On the one hand, anti-globalisation campaigners have ignored the economic benefits that have seen many millions of people across the emerging world lifted out of poverty. On the other, many multinationals have sought to avoid their environmental and social obligations by turning a blind eye to the often degrading and dangerous conditions in which the employees of their remote suppliers work.

Governments have sought to influence positive outcomes through enforcing regulations. Still, in many instances, their approach has not kept pace with developments in the business community and are out of step with economic reality.

With a few notable exceptions, all players in this scenario have been guilty of a blinkered approach to developing a cohesive and beneficial public and corporate global trade strategy.

International trade is widely recognised as a fundamental driving force for economic prosperity. It is crucial to ensure that it takes place in a safe and secure environment considering increasing risks of disruption and terror-related events.

The World Customs Organisation's (WCO) Authorised Economic Operator (AEO) Customs-to-Business (C-2-B) partnership programme was established more than a decade ago. It is now acknowledged as a key driver in promoting a secure, transparent, and predictable trading environment. The programme achieves this through the voluntary demonstration of compliance and safety and security provisions in trade-related business. A harmonised AEO Application and Self-Assessment questionnaire have been developed and successfully applied to support these objectives.

Economic operators use the questionnaire in electronic or paper form when applying for AEO status in multiple jurisdictions. It covers the main issues and areas to be addressed during Customs' validation of the AEO applicant. Customs Administrations are also encouraged to recognise compliance with international security standards and requirements laid down by other intergovernmental organisations.

2. Core Ideology

In this context, private sector "stakeholders" refer to all supply chain representatives of organisations directly or indirectly affected by the AEO programme and other community members who may have the skills and perspectives to contribute to such a group. The South African Revenue Service (SARS) Private Sector AEO group (SARS-PS-AEO-G) reports and advises the SARS and Business Unity South Africa (BUSA) (Apex) in matters relating to the South African AEO Programme. The advisory role takes place in collaboration with other role players such as cargo owners, operators in the extended supply chain, advisors, and training bodies on Customs/Trade-related impediments, to ensure that a compliant, safe, and secure international trade environment is created and fostered.

A successful AEO programme requires senior-level buy-in to ensure continued support and funding to develop and maintain the programme. Early engagement of various role-players, the Private Sector, and ministries (organs of Government) that cover border activities significantly helps develop and implement the programme.

Input from the Private Sector will be incorporated in the solutions tabled. It will also extend its reach to inform the South African Customs Union (SACU) regional structures about the programme of the SARS and Private Sector issues when they are addressed in the supply chain movement.

The main aim is to work within the WCO framework and in the furtherance of the SAFE Framework of Standards, the World Trade Organisation's Trade Facilitation Agreement (WTO-TFA), and the African Continental Free Trade Area (AfCFTA) to secure and facilitate global trade in the region. This framework will contribute to building a fair, safe, and secure environment that will facilitate growth and improve all citizens' living standards in the region.

The programme will monitor the roll-out and progress in South Africa, and where appropriate, adopt the practical implementation of various other WCO toolkits and instruments to ease trade flows. This approach will enable the AEO programme to mature and address the simplification and harmonisation articulated in the WCO Revised Kyoto Convention, WTO-TFA and AfCFTA, by measuring cross-border synchronisation.

Industry engagement and consultation are essential elements of all stages, from initiation to implementation, which continues through the growth and maturity of the AEO programme. This process will ensure that a healthy and effective partnership is built at the onset setting the stage for success.

As the AEO programme evolves, consideration will be given to maintaining and conducting regular consultations with the Private Sector to discuss programme needs, challenges, and

SARS-PS-AEO-G

future direction. Again, this will help foster the necessary trust and positivity required to ensure a successful and lasting programme partnership.

3.Membership

Stakeholders include: Insert proposed BUSA Membership and the SARS Enterprise Customs and Excise Committee (ECEC) and Accreditation Members.

The Members shall not delegate their role in the Committee unless in exceptional circumstances and authorised by the Chairperson.

Members and Invitees will comply with the confidentiality provisions as prescribed in the operational policies and procedures of the SARS.

Invitees shall not have voting rights and may not be considered for the purpose of a quorum.

The Chairperson may, where required, invite non-members to attend a meeting on an ad hoc basis to provide the Committee with specialist skills and expertise.

Ideally, this working group will include a high-level manager, the Private Sector compliance officers, the SARS ECEC and Accreditation leadership, a representative from the legal department, and other human resources representatives. Government agencies with authority to inspect arriving or departing international cargo should also participate in this working group.

- In consultation with the Chair of BUSA (Sub-Committee: Trade, Transport and Logistics), the SARS, in consultation with the ECEC, will appoint all SARS-PS-AEO-G members.
- The SARS-PS-AEO-G should have a diverse membership - various disciplines, cargo owners, role players in the end-to-end supply chain, trainers, consultant experts and businesses - including small-and-medium-sized enterprises.
- The SARS-PS-AEO-G will consist of up to 20 members.
- The SARS-PS-AEO-G will predominantly consist of representatives of importers/exporters, manufacturers, supply chain service providers (customs brokers, cargo carriers, warehouses/depots), technical service providers and trade associations, professional bodies, and relevant academia.

4. Purpose and Scope

The purpose of the SARS-PS-AEO-G is to:

- Bring supply chain stakeholders together to advise the SARS, from the perspective of the private sector, on improving South Africa's global competitiveness through the implementation of a modern AEO Programme that facilitates the control and security of foreign trade, preserves the health, cultural and environmental heritage of the nation and facilitates foreign trade.
- Provide a platform for the private sector and Government agencies to work together to develop an AEO programme that increases the competitiveness of the country and its private sector participation in international trade.
- Unite the private sector to jointly redesign, with Government, the AEO Programme's processes in a synchronised and harmonised manner.
- Act as the central channel for stakeholder and broader community involvement.
- Intensively review and understand the technical, social, cultural, and economic complexity of the AEO programme.
- Inform and guide decision-makers.
- Additional small topic-specific working groups may be established from time to time with various stakeholder representatives.

The following principles of the group apply:

- **Confidentiality** – in sharing information regarding the subject matter, the parties operate within the ambit of their respective confidentiality regulatory frameworks.
- **Collaboration** – reliable interdependence, i.e., a clear vision with members operating in an environment of sharing and trust.
- **Conscience** – embody or invoke ethical behaviours for service, trust, and respect.
- **Capability** – members will have the requisite technical and institutional expertise to meaningfully engage in discussions and formulate recommendations or action items.
- **Clarity** – members will provide strategic, operational, tactical, and regulatory advice to their respective principals.

SARS-PS-AEO-G

The purpose and scope of the SARS-PS-AEO-G are to ensure and advise on the implementation of the AEO programme with specific reference made to:

- AEO migration from Preferred Trader Programme
- AEO implementation and lessons learned from the pilot group
- AEO Template (Self-Assessment Questionnaire)
- AEO Customs Administration validator guide and practical experience when conducting audits, site visits or virtual audits
- AEO Audit/evaluation plan

The International Trade protocols and related matters concerning the Private Sector will be addressed continuously as the programme evolves, strengthening the awareness, compliance, and ease of verifying the required standards.

A communication and awareness strategy will be formalised to ensure the broader business community is updated and kept abreast of any new requirements or change in the AEO programme. Raising awareness of the AEO programme and its benefits within other Government agencies early in the process will assist in the *agencies' buy-in*, especially by highlighting benefits to both Government and the Private Sector.

The SARS validators' training experiences will be synchronised to ensure that the latest requirements and developments in supply chain movements are being addressed and upgraded. This experience will ensure a collective approach is followed while preventing relapse in the skills gap.

Out of Scope:

The SARS will develop the South African AEO programme following the WCO Guidelines. It will be adjusted to the South Africa environment without compromising quality or alignment in the criteria standards as per the SAFE Framework of Standards Criteria A to M.

5. Key Deliverables

The SARS-PS-AEO-G key deliverables are:

- To inform and advise the Commissioner of SARS and the ECEC, from the perspective of the private sector, on improving South Africa's global competitiveness through the implementation of a modern AEO programme that facilitates the control and security of foreign trade, preserves the health, cultural and environmental heritage of the nation and facilitates foreign trade.
- To support the adoption and effective implementation of the AEO Programme.

SARS-PS-AEO-G

- To leverage business resources and government relationships to advocate for and implement the AEO programme.
- The SARS-PS-AEO-G shall provide a written report for the ECEC at the conclusion of each meeting.
 - To inform and advise the Private Sector on the SARS roll-out of the AEO programme.
 - To support, monitor and assist in adopting an effective implementation as agreed with the SARS, which will deploy WCO and other relevant international instruments.
 - To leverage business resources and government relationships to advocate for the most practical and correct implementation of the AEO programme to unlock the maximum benefits of a compliant, safe, and secure trading environment.
 - To inform the SARS of the status and practical challenges of implementing the AEO programme in South Africa and possibly in the SACU region.
 - To provide a written report after each meeting.

6. Chairperson

An interim independent chairperson will be appointed before the formation of the SARS-PS-AEO-G by decision-makers. The Chairperson will lead the formation of the SARS-PS-AEO-G, with the facilitator's support, until a permanent chairperson is negotiated between the SARS-PS-AEO-G and decision-makers.

The role of the Chairperson is to lead the SARS-PS-AEO-G by:

- Finalising the Terms of Reference
- Acting as a media spokesperson.
- Liaising with decision-makers and stakeholders.
- Assisting the group to develop and sign off on a Code of Conduct.
- Fostering an atmosphere of enquiry, respect, open-mindedness, and group learning, supporting the group to strive for unanimous agreement.
- Maintaining a focus on outcomes, priorities, plausible results, and resource constraints.
- Ensuring a fair and equitable group process, adopting a neutral position.
- Foster and encourage leadership within the SARS-PS-AEO-G members as an enabler to establishing smaller working groups (where appropriate) with a leader appointed to drive toward outcomes on specific interest areas.
- Building the capacity of the SARS-PS-AEO-G to participate in a collaborative process, bring a positive approach, and seek win-win solutions.

SARS-PS-AEO-G

- Ensuring sufficient recording of key agreements.
- Negotiating, troubleshooting, and developing a conflict resolution process.
- Performance managing of any member who is not complying with the Code of Conduct or Terms of Reference.
- Terminate the SARS-PS-AEO-G if it is considered no longer fit for purpose.

The Chairperson must decide on matters after proper deliberation with the Members and consider the views, opinions, concerns and recommendations of every Member. The determination of a matter before the Committee is the decision of the Chairperson and not that of the Committee.

However, the Chairperson may not decide unilaterally outside of the Committee process as prescribed in the TOR and in a manner that disregards the mandate and the Committee's objectives. When appropriate, the Chairperson may schedule a meeting to discuss any other matter that is incidental to the Committee's work.

In the absence of the Chairperson, or where the Chairperson recuses himself/herself, the Deputy Chairperson must act for the Chairperson, and s/he shall be empowered to perform all the duties and exercise all the powers and authorities imposed or conferred upon or held by the Chairperson in terms of the TOR. The Chairperson is responsible for compliance with the TOR.

7. Operational Structure

- The SARS-PS-AEO-G member terms will be for five years, with the term commencing on April 1 ending March 31, as per the financial year of SARS.
- The SARS-PS-AEO-G members may not serve more than two consecutive terms.
- The SARS-PS-AEO-G will employ a rotation system where members leave the SARS-PS-AEO-G after their terms are completed, subject to transitional arrangements required to give initial effect to these terms.
- Former SARS-PS-AEO-G members may be re-appointed to the SARS-PS-AEO-G after a one-year hiatus.
- The SARS-PS-AEO-G members shall elect the SARS-PS-AEO-G Chairperson and Vice-Chairperson. The SARS-PS-AEO-G Chairperson and Vice-Chairperson are subject to the same terms of office and rotation policy as all SARS-PS-AEO-G members.
- Under the BUSA (Apex organisation), the private sector will organise themselves in two working groups governed by clear identifiable deliverables in each working group. The two working groups' segregation is based on monitoring, evaluation, information gathering, and training in the AEO programme. It will also address challenges faced by the Private Sector with the World Bank ranking in terms of cross

SARS-PS-AEO-G

border management and in-transit movement due to the magnitude of landlocked countries in the ESA-region.

- Each working group will be headed by a champion from the SARS-PS-AEO-G (subject matter expert).
 - The working group will have a minimum of four active members for inclusiveness and a broad overview in South Africa.
 - The working group will be guided by Section 4 – *Purpose and Scope* in delivering key deliverables, as indicated under Section 5 – *Key Deliverables*. A short two-page summary report comprising of the most recent activities achieved under the SARS-PS-AEO-G will be documented each term.
- Where appropriate, smaller working groups with a leader appointed to drive outcomes on specific interest areas will be constituted. Their TORs will form addendums to this TOR.
- To promote continuity, the Chairperson, in consultation with the Vice-Chairperson, will appoint new SARS-PS-AEO-G members when necessary so that terms are staggered, and the SARS-PS-AEO-G always has 20 members. This situation will ensure that the institutional memory is not eroded in a handover to new members.
- Entities wishing to become members of the SARS-PS-AEO-G shall submit a written application to the Chairperson of the SARS-PS-AEO-G.
- All communications will be channelled through SARS-PS-AEO-G.

8.Meeting Proceedings

The SARS-PS-AEO-G (or steering committee) will meet quarterly. The sub-working groups will meet six times a year (bi-monthly) to ensure the key deliverables are communicated and stay relevant to South Africa.

Meetings will be held virtually via the latest technology (such as Zoom, Microsoft Teams, etc.) for the duration of the Covid-19 pandemic in line with current regulations. Post the pandemic, meetings will be held at either the SARS, BUSA or virtually. A centralised database and webpage will be created under the SARS-PS-AEO-G.

All meetings will have an agenda, action log, and minutes distributed to members as far as practically possible at least one (1) working day prior to the meeting. Notices of the meeting shall include the agenda and all supporting documentation.

9. Conflict of Interest

At the beginning of each meeting, the Chairperson shall ascertain the existence of any conflict of interest and minute them accordingly. Members are required to inform the Chairperson of conflict (or potential conflict) of interest they may have in relation to items of business. Where a Member discloses a conflict of interest, the Chairperson, after consideration, will request the member to recuse himself/herself from decision-making regarding the conflict-of-interest matter. The Secretariat shall ensure that a proper register of such declarations of conflict of interest be kept with the minutes of each meeting.

10. Resources Required

A work plan for a year in advance will be tabled for approval by the SARS-PS-AEO-G and will drive the appropriate resources required. The work plan will ensure that work deliverables are undertaken in a pre-planned, transparent, and shared platform.

11. Measurement of Performance:

Key performance indicators (KPIs) (i.e., Objectives and key results – OKRs) will be established to measure the AEO programme performance. Performance indicators are critical to demonstrate to the SARS internally and to the Private Sector that the program achieves the expected results, including delivering tangible benefits.

This process will also help secure future funding to expand the programme further and further enhance its trust.

Given that the SARS-PS-AEO-G has been specifically created to work with the monitoring and practical implementation of the AEO program and its instruments, it must ensure the progress regarding the free flow of trade across borders is measured and monitored.

The following two instruments will be used to guide the overall performance within the time constraint.

- WCO-TRS in the ESA region, with specific reference to South Africa (Time, Release studies)
- World Bank survey rating "Trading Across Borders" and "Ease of Doing Business", across the ESA region, with specific reference to South Africa.

The SARS-PS-AEO-G will be required to harness the necessary resources to implement these measurement initiatives.

SARS-PS-AEO-G

The introduction of quality assurance and control procedures will be established to review the programme's AEO performance. It will be instituted from the first meeting and tabled in an agreed matrix for discussion. For example, the programme will combine lessons learned from the AEO applicant's experience involving the South African specific requirements and new control procedures from the AEO programme managers as the SARS evolves. The combination of these lessons learned, coupled with the new requirements, will ensure that the overall uniformity of standards is strengthened within the control procedure of the AEO programme.

12. Training Matrix and Focus Areas:

The SARS and the Private Sector, when establishing the AEO programme, should make every effort to understand the standards that have already been established. These standards include those developed by the WCO and other Customs Administrations with AEO programmes, and where possible, these should be incorporated into the South African AEO programme.

This adoption is an essential consideration for South Africa looking to sign MRAs with other governments once the AEO program has achieved a certain maturity level. However, it is crucial to note that the SARS should feel free to design and implement its AEO programme based on South Africa's own risks and needs.

The WCO, the Private Sector Consultative Group (WCO-PSCG) and other stakeholders have developed several documents. It has compiled a SAFE Package that incorporates all these essential materials in one convenient place. Below are some of the critical documents that the SARS personnel in charge of developing and implementing an AEO should study when implementing Pillar 2:

- *AEO Compendium*
- *Model AEO Appeal Procedures*
- *Customs-Business Partnership Guidance*
- *The Authorized Economic Operator and the Small and Medium Enterprise - (FAQs)*
- *Strategy Guide for AEO Mutual Recognition*
- *FAQ on Linkages Between the SAFE Authorized Economic Operator (AEO) Programme and Article 7.7 of the WTO Trade Facilitation Agreement (TFA)*
- *WCO Guidelines on Trader Identification Number (TIN)*

13. Looking Ahead

E-commerce 4IR, blockchain and other disruptive technologies in the programme will need to be addressed. It will create more simplified workflows, new working methods and/or the enhancement in risk methodologies.

Specific Training models:

Periodic AEO programme evaluations and audits should be considered to identify areas for improvement and ensure the AEO programme is performing and meeting its objectives. These evaluations will help ensure that the integrity and transparency of the AEO programme are established throughout the Private Sector and the SARS. The training model needs to include all the criteria specified from A - M on the addendum to these TORs.

Addendum

A.WCO – AEO Criteria Structure Applicable to Self-Assessment Questionnaire

Criteria	ID Number	Sub-criteria
<i>A. Demonstrated Compliance with Customs Requirements</i>	A.1	Record of any infringements/offences
	A.2	Tax and Customs duty payment
	A.3	Quality assurance of Customs declarations
<i>B. Satisfactory System for Management of Commercial Records</i>	B.1	Commercial records management framework
	B.2	Commercial records management system
	B.3	Internal control system
<i>C. Financial Viability</i>	C.1	Proven financial Standing
	C.2	Bankruptcy Proceedings
	C.3	Obligations
<i>D. Consultation, Co-operation, and Communication</i>	D.1	Exchange of Information
	D.2	Discrepancy Reports for Goods and Items
	D.3	Emergency Reporting and Contingency Planning
<i>E. Education, Training and Awareness</i>	E.1	Internal Trade Security Training System
	E.2	Education and Training on the Risks Associated with the Flow of Goods and Articles in the International Trade Supply Chain
	E.3	Crisis Management Training and Crisis Management Simulation Exercises
	E.4	Internal Training System on Customs Laws and Regulations
<i>F. Information Exchange, Access, and Confidentiality</i>	F.1	Import/Export Activities
	F.2	Data Security
<i>G. Cargo Security</i>	G.1	Safety Management System of Cargo
	G.2	Loading and Receipt of Cargo
	G.3	Export Security
	G.4	Container Safety Management System
	G.5	Container Inspection
	G.6	Container Seals
	G.7	Container Storage

SARS-PS-AEO-G

Criteria	ID Number	Sub-criteria
	G.8	Driver Identity Verification
	G.9	Protection of the Supply Chain from Contaminants and Pests
	G.10	Commitment to Supply Chain Security
	G.11	Audit Process to Oversee Supply Chain Security Programme
<i>H. Conveyance Security</i>	H.1	Security Management System for Conveyance
	H.2	Conveyance Inspection
	H.3	Conveyance Storage
	H.4	Transport Process Control
<i>I. Premises Security</i>	I.1	Safety Management System of Premises
	I.2	Exit/Entry
	I.3	Building Structures
	I.4	Lighting
	I.5	Video Surveillance
	I.6	Warehousing Area
	I.7	Locking Devices and Key Custody
	I.8	Access Control Management System
	I.9	Employee Access Control
	I.10	Visitor Access Control
	I.11	Control of Unauthorised Access and Unidentified Persons
<i>J. Personnel Security</i>	J.1	Personnel Security Management System
	J.2	Employee File Management
	J.3	Pre-employment Review
	J.4	Employee Separation Management
	J.5	Visitor Identification and Registration
	J.6	Identification and Disposition of Unauthorised Access and Unidentified Persons
	J.7	Code of Conduct
<i>K. Trading Partner Security</i>	K.1	Business Partner Security Control System
	K.2	Comprehensive Assessment
	K.3	Written Documents
	K.4	Regular Check
	K.5	Forced Labour
<i>L. Crisis Management and Incident Recovery</i>	L.1	Contingency Plan

SARS-PS-AEO-G

Criteria	ID Number	Sub-criteria
<i>M. Measurement, Analysis, and Improvement</i>	M.1	Internal Audit/Review Mechanism on Import/Export Activities
	M.2	Monitoring Activities

B. Definitions and Acronyms, References and Legislation

AfCFTA	African Continental Free Trade Area
AEO	Authorised Economic Operator
BUSA	Business Unity South Africa
C-2-B	Customs-to-Business
ECEC	Enterprise Customs and Excise Committee
ESA	East and Southern Africa
PSCG	Private Sector Consultative Group
SAFE	Framework of Standards to secure and facilitate global trade
SARS	South African Revenue Service
SARS-PS-AEO-G	SARS Private Sector AEO Collaborative Group
TFA	Trade Facilitation Agreement
TRS	Time Release Study
WCO	World Customs Organisation
WTO	World Trade Organisation