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SmartLessons

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Walking the Last Mile: Operationalization of Albania's Authorized Economic Operators Program

Albania's Authorized Economic Operators (AEO) program is not yet operational, even though the country has adopted the necessary EU legal and regulatory frameworks. This SmartLesson outlines shortcomings in the adoption of AEO provisions under the European Community Customs Code (CCC) as well as the obstacles the national government has faced putting in place the complementary reform measures necessary to ensure practical effectiveness. Lessons learned from the Albanian experience may be instructive for other countries in the Central European Free Trade Agreement region as they look to operationalize their AEO programs without diverting from AEO Guidelines as set out in the EU acquis.

BACKGROUND

Simplifying cargo clearance procedures is a way of rewarding traders for long-term compliance and, at the same time, facilitating low-risk cargo flows across borders. Certified-trader programs are an elaborated form of simplified procedures that have been applied successfully in many countries around the world under different names. Within the EU the scheme is called the Authorized Economic Operators program. The AEO concept in the EU is based on the World Customs Organization's Customs-Business partnership and aims to enhance supply-chain security and facilitate trade by simplifying customs.

In Albania, as in the entire Western Balkans, the AEO system has gained momentum and is considered one of the most effective measures to facilitate intraregional trade. In 2014, the Albanian government amended the Customs Code¹ to incorporate AEO provisions and, later that same year, adopted the program's implementation provisions.²

However, no domestic companies have been awarded an AEO certificate to date. Reasons for this situation include the following:

- Albania's AEO framework remains incomplete. Traders and

¹ Article 40-42 of the Customs Code (Law No. 102/2014).

² Decision of the Council of Ministers (DCM) 919/29.12.2014.

logistics firms must meet numerous rigorous criteria, and this constrains the number of qualifying companies. Instead, interested companies have been instructed to apply to a local clearance program, which allows the completion of the clearance procedures on the operator's premises.

- A number of simplified procedures were defined only after the adoption of AEO regulations, and some benefits have not yet been defined. Despite these glitches, private sector interest in participating in the AEO program remains strong.

Under the ongoing Albania Competitiveness Development Policy Operation, the Albanian Customs Service (ACS) is working closely with the World Bank and IFC to operationalize the local clearance procedures for authorized traders. In this context, the adoption of the Instruction on Local Clearance by the Customs Director General (Instruction No. 6 of April 22, 2016) has been inserted as a prior action for the disbursement of the IBRD loan.

Albania has followed a path of gradual harmonization to the EU *acquis*.³ (See Box 1.) This careful approach has enabled the government to achieve not only compliance with the EU *acquis* but also the necessary customization for the country's economic circumstances. In effect, the government has acknowledged a need to go beyond mere legislative compliance with the European Customs Code and to take additional practical measures toward operationalization. This will allow the private sector to reap the economic benefits of the program.

LESSONS LEARNED

Lesson 1: Be selective about applying the rules.

While Albania has already complied in full with the legislative and regulatory requirements of the EU *acquis*, there is a need to go beyond mere legislation and to take the nature and structure of the market into account in seeking to achieve

³ Article 97, point 2.

Box 1: What is the EU *Acquis*?

The *acquis* is the body of common rights and obligations that is binding on all the EU member states. It is constantly evolving and comprises:

- the content, principles and political objectives of the Treaties;
- legislation adopted pursuant to the Treaties and the case law of the Court of Justice;
- declarations and resolutions adopted by the Union;
- instruments under the Common Foreign and Security Policy;
- international agreements concluded by the Union and those entered into by the member states among themselves within the sphere of the Union's activities.

Candidate countries have to accept the *acquis* before they can join the EU and make EU law part of their own national legislation. Adoption and implementation of the *acquis* are the basis of the accession negotiations.

Source: European Neighbourhood Policy and Enlargement Negotiations webpage: http://ec.europa.eu/enlargement/policy/glossary/terms/acquis_en.htm.

harmonization. By that view the ACS's current interpretation of criteria is overly stringent. For instance, minor infringements automatically lead traders to be classified as noncompliant and to be liable to disqualification from the evaluation process. Such a strict approach increases the possibility that interested companies, especially small and medium enterprises (SMEs), will fail to meet the required standards.

A preliminary assessment of the ability of Albania's economic operators to comply with AEO criteria would be invaluable in developing projections of the program's success. ACS is working to develop instructions specifically focusing on the application of AEO eligibility criteria, and with the objective of removing barriers to entry for Albania's SMEs, which constitute the vast majority of its private sector entities. This will require striking a fine balance between compliance with the EU regulations and customization to the Albanian market.

Lesson 2: Ensure that benefits are in place prior to the establishment of the AEO program.

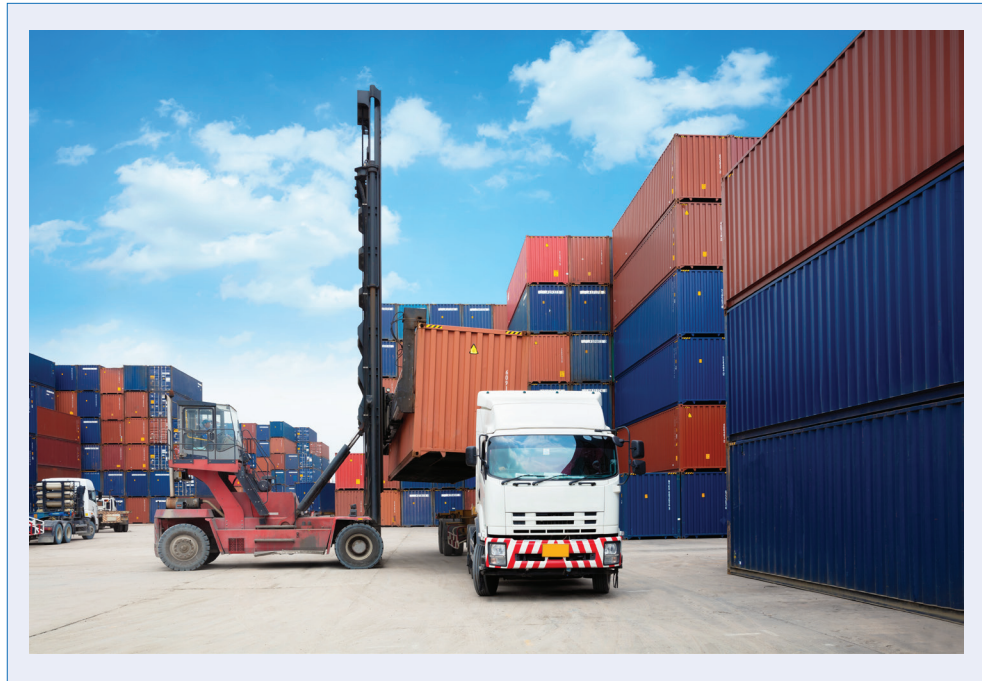
Introduction of AEO will require a benefits framework for certified economic operators to be in place and ready. If no enterprises are able to take advantage of benefits, the program will fail.

There have been four applications for AEO certificates, all of which have been unsuccessful in the absence of a robust benefits framework. For instance, lack of clear instructions and guidelines prevented customs officers from implementing local clearance procedures. In addition, it is still unclear which documents are exempt from submission.

Recently, ACS adopted a Customs Director General Instruction⁴ and a manual on local customs clearance that offer clear implementation guidance to customs officers. Subsequently, ACS has approved five applications for local clearance procedures. Yet steps need to be taken to further clarify benefits. (See Figure 1.)

Lesson 3: Align requirements with existing risk management programs.

Effective implementation of the program will require a balanced approach to risk profiles and risk management. Albania's AEO status is contingent on certain eligibility criteria being met,



in particular those criteria that define the risk in accordance with the type of activity and the relevant operator.

AEO status should be aligned in all phases with risk management efforts to enable ongoing monitoring of compliance, allowing permanent monitoring of conditionality fulfillment. This alignment, during the application phase and after, consists of prior checks of any economic operator risk profile and its potential to comply at all stages. Thus the alignment of the AEO program with the existing risk management can increase the efficiency of the program itself.

Lesson 4: Develop a clear communication and outreach strategy.

Communication and outreach are vital components in the successful implementation of an initiative such as AEO. To date, efforts have been

Figure 1: Albanian AEO Framework Development



⁴ Customs Director General (DG) Instruction No 6/22.4.2016.

undertaken to educate stakeholders, including corporations and customs officers, through face-to-face meetings or trainings. However, there is no systematic approach in place and this has likely affected the results. Media campaigns, workshops, and other communication tools may be effective means of communication about the AEO program.

CONCLUSION

The operationalization of the AEO program presents a challenge for Albania, as it does for other Western Balkan countries. The government has come to realize that the development of a functional AEO program requires—in addition to legislative harmonization with the EU acquis—customization and adjustment of eligibility criteria to the local market and conditions. Introduction of an AEO Strategic Action Plan and the development of a pilot project to test feasibility would be good preliminary steps going forward. Taking a similar approach elsewhere in the Western Balkans might also open the door for complete harmonization of national AEO programs and the strengthening of intraregional trade.



DISCLAIMER

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