Pursuant to Article 6b paragraph 4 of the Customs Law (Official Gazette of the Republic of Montenegro 7/02, 38/02, 72/02, 21/03, 31/03, 29/05, 66/06 and Official Gazette of Montenegro 21/08 and 62/13), at its session held on 18 June 2015 the Government of Montenegro adopted the following

**DECREE**

**ON THE CONDITIONS FOR GRANTING THE STATUS OF AUTHORIZED ECONOMIC OPERATOR IN THE CUSTOMS TERRITORY OF MONTENEGRO**

(Official Gazette of Montenegro 038/15 of 17 July 2015)

**Subject**

**Article 1**

This Decree shall regulate the conditions for granting the status of authorized economic operator (hereinafter referred to as: “Authorized Operator”) to a person with its registered office in the customs territory of Montenegro, as well as the conditions and procedures under which the status of authorized operator can be revoked or temporarily suspended.

**Benefits**

**Article 2**

Granting the status of authorized operator may be issued for the use of the following benefits:

1. for customs simplifications to business entities achieving benefits relating to simplifications set out by the customs regulations, and meet the requirements of Art. 6 to 8 of this Decree;
2. during security checks, to business entities achieving benefits during customs controls relating to security checks at entry and exit of goods from the customs territory of Montenegro, and meet the requirements of Art. 6 to 9 of this Decree;
3. for customs simplifications and during security checks to business entities achieving benefits referred to in para. 1 and 2 of this Article, and meet the requirements of Art. 6 to 9 of this Decree.

**Inspection and control of an authorized operator**

**Article 3**

1. If the holder of the status of authorized operator for benefits referred to in Article 2 paragraph 1 items 1 or 3 of this Decree submits a request for one or more authorizations referred to in Art. 131-169 and Art. 475-520 of the Decree on implementation of the Customs Law, the administrative authority responsible for customs affairs (hereinafter referred to as: “the customs authority”) shall not check the compliance with conditions that are checked when issuing status of authorized operator, in accordance with this Decree.
2. The holder of the status of authorized operator shall be subject to a smaller number of physical checks and inspection of documents in relation to other business entities, if the customs authority does not decide otherwise for reasons of safety or performance of duties of controls established by other legislation.
3. If the customs authority following the risk analysis decides to conduct a further inspection and control of shipments covered by a customs declaration lodged by an authorized operator, this control shall be carried out as a priority.
4. Control referred to in paragraph 3 of this Article may, at the request of an authorized operator, and with the consent of the customs authorities, be carried out outside the seat of the customs authority.
5. In order to achieve benefits referred to in paragraphs 1 to 4 of this Article, the business operator shall submit to the customs authority the approval numbers (or number) for the status of authorized operator.

**Request for granting the status of authorized operator**

**Article 4**

1. Request for granting the status of authorized operator (hereinafter referred to as the: “Request”) shall be in written or electronic form, on a template given in Annex 1, which makes an integral part hereof.
2. If the request does not contain all the necessary information, the customs authority shall, within 30 days of receipt of the request, ask the business operator to supplement the request within a specified period.
3. Information along with the request shall be submitted to the customs authority in electronic form, if possible.

**Rejection of the request**

**Article 5**

The customs authority shall reject the request if:

1. it is not made in accordance with this Decree;
2. the applicant has been convicted of a criminal offense in respect of economic activities or at the time of submission of the request the bankruptcy proceeding is carried out for the applicant;
3. representative of the applicant was convicted for crimes related to the violation of customs regulations and representation activities;
4. the request is submitted before the expiry of three years from the date of withdrawal of approval of the status of authorized operator, in accordance with Article 17 paragraph 4 of this Decree.

**Compliance with customs regulations in the previous period**

**Article 6**

1. Business operator meets the criteria of compliance with customs regulations in the previous period, if in the last three years preceding the request, the applicant, persons who manage the business operator or persons exercising control over its management, representative of the applicant in the customs procedure, if any, and/or person responsible in the business operator for customs issues did not seriously or multiple times violated customs regulations.
2. It is considered that the business operator adhered to customs regulations referred to in paragraph 1 of this Article if the competent customs authorities, considering the number or extent of customs procedures of the applicant, concludes that the violations of customs regulations are negligible in relation to the number or extent of actions related to customs procedure and if "good intentions" of the applicant were not brought into question.
3. If three years have not passed from the establishment of the business operator of the applicant, the customs authority shall asses the fulfilment of the criteria referred to in paragraph 1 of this Article on the basis of records and data at its disposal, from the date of establishment of the business operator.

**Business and transport records**

**Article 7**

1. Business operator meets the criteria of a satisfactory manner of conducting business, and transport records allowing customs controls, if:
2. It runs accounting records in accordance with generally accepted accounting principles, thereby facilitating the customs inspection, which includes the subsequent controls;
3. it allows the customs authority physical or electronic access to the customs records and, if necessary, transport records;
4. it has a logistic system which distinguish domestic from foreign goods;
5. it has the administration corresponding to the type and scope of business and which is suitable for the goods trade management and if there is an internal control, which allows for the detection of illegal or irregular transactions;
6. if necessary, it has a proper procedure for managing permits and authorizations in relation to commercial policy measures or in connection with trade in agricultural products;
7. it has an established system for archiving records and data, and for protection against data loss;
8. it ensures that all employees are aware of the need to notify the customs authorities in the event of difficulties in meeting the requirements;
9. has appropriate security measures of information technology to protect information systems from unauthorized access and use.
10. For benefits referred to in Article 2, paragraph 1, item 2 of this Decree, the applicant does not need to meet the requirements under paragraph 1, item 3 of this Article.

**Financial stability**

**Article 8**

1. It is considered that the applicant is financially reliable and stable if it was solvent, or in the previous three years, from the date the request it was able to carry out its business obligations.
2. If three years have not passed from the establishment of the applicant, its financial solvency shall be assessed on the basis of available records and data, from the date of its establishment.

**Safety and security measures**

**Article 9**

1. The applicant meets the relevant safety and security measures if he:
2. facilities used for the activity to which the status of authorized operator relates, are constructed of a material that prevents unauthorized entry and provide protection against unauthorized entry;
3. has established appropriate control measures to prevent unauthorized entry to the area from which delivery takes place, and/or the docks where loading takes place and cargo holds;
4. has established measures for the handling of goods including protection measures for recording, replacement or loss of material or change in load units;
5. has established procedures for handling import and/or export licenses relating to the goods whose trade is subject to prohibitions and restrictions in order to distinguish the goods from other goods;
6. has applied the measures that enable a clear identification of his business partners, and in order to protect international trade chain;
7. performs safety checks of people employed in workplaces that are sensitive in terms of safety and periodically checks their work, to the extent prescribed by law;
8. enables its employees to actively participate in programs related to raising awareness of safety.
9. For the purpose of granting the status of authorized operator for benefits referred to in Article 2, paragraph 1, item 2 of this Decree, international airline or shipping company which has a regional office in Montenegro, with a request may submit proof that it is the holder of an internationally recognized safety or security certificate, which was issued on the basis of international conventions regulating the sector of this traffic.
10. The customs authority shall accept the certificate referred to in paragraph 2 of this Article, if the conditions for its issue are identical or correspond to the terms of paragraph 1 of this Article.

**Granting the status of authorized operator**

**Article 10**

1. The customs authority in the process of granting the status of authorized operator checks whether the criteria and conditions under Art. 6-9 of this Decree are met and, develops a report thereof.
2. Compliance with the criteria referred to in Article 9 of this Decree shall be checked for all facilities associated with customs activities of the applicant.
3. If the customs authority is not able to perform inspection of all the rooms within the deadline for granting the status of authorized operator, it can inspect only part of those premises, if there is no doubt regarding compliance with the safety standards of the applicant.
4. The customs authority may accept the conclusions of an expert of appropriate profession submitted by the applicant, in respect of the compliance with the requirements and criteria referred to in Art. 7, 8 and 9 hereof.
5. The expert referred to in paragraph 4 of this Article and the applicant may not be associated persons.
6. Granting the status of authorized operator shall be issued on a template given in Annex 2 which makes an integral part hereof.

**Deadlines for granting the status of authorized operator**

**Article 11**

1. Decision on the request shall be made within a period of 120 days, from the day of the request.
2. The period referred to in paragraph 1 of this Article begins to run from the date of receipt of all data necessary for acceptance of the request, on which the customs authority shall inform the applicant.
3. If the customs authority is unable to grant the status of authorized operator within a period of time referred to in paragraph 1 of this Article, this period may be extended by 60 days, on which the customs authority shall inform the applicant including the reasons for the extension.
4. Deadline referred to in paragraph 1 of this Article may be extended if the applicant concerned, in the course of checking the compliance with the requirements and criteria referred to in Art. 6-9 of this Decree performs harmonization of business in order to meet these requirements and criteria and informs the customs authority thereof.
5. In the case referred to in paragraph 4 of this Article, the deadline for making a decision on the request for granting the status of authorized operator shall be extended for 30 days.
6. If during the process of check referred to in Article 10 of this Decree it shall determine deficiencies, customs authority shall inform the applicant and leave him a deadline of 30 days to respond to the identified deficiencies.
7. On the rejection of the request, the customs authority shall notify the applicant stating the reasons for rejection, within deadlines referred to in paragraphs 1 to 6 of this Article.

**The validity of the status of authorized operator**

**Article 12**

1. Granting the status of authorized operator shall come into effect on the tenth working day from the date of issuance.
2. The status of authorized operator shall be granted for an indefinite period.
3. The customs authority shall control the compliance with the requirements and criteria based on which the status of the authorized operator was granted.
4. The customs authority shall again examine compliance with the requirements and criteria based on which the status of authorized operator was granted, in case of:
* modification of regulations concerning customs affairs;
* when there is reasonable doubt that the authorized operator no longer meets these conditions and criteria.
1. If the status of authorized operator was approved to a business operator established in a period shorter than three years, during the first year after granting the status the customs authority shall carry out intensive supervision over the authorized operator.
2. In implementing procedures referred to in paragraphs 3 and 4 of this Article, provision of Article 10 paragraphs 4 and 5 hereof shall also apply.

**Temporary suspension**

**Article 13**

1. The status of authorized operator shall be temporarily suspended (hereinafter referred to as: suspended) if:
2. an authorized operator no longer meets the requirements and criteria on the basis of which the status of authorized operator was obtained;
3. there is a reasonable doubt that the authorized operator performed the action due to which an appropriate procedure may be initiated and that is associated with the violation of customs regulations.
4. If the authorized operator performed the action referred to in paragraph 1 item 2 of this Article, the customs authority shall suspend approval of the status of authorized operator for the duration of the appropriate procedure if it is initiated and shall inform the holder of the authorization thereof.
5. Notwithstanding paragraph 1, item 2 and paragraph 2 of this Article, customs authority may decide not to suspend the approval of the status of authorized operator if, having regard to the number or extent of customs procedures of authorized operator, it determines that a violation of customs regulations is negligible and is without prejudice to "good faith" of the authorized operator.
6. Before making a decision on suspension, the customs authority shall inform the authorized operator on its findings and give a deadline of 30 days from the date of delivery of the notice, to remedy identified deficiencies and/or for the business operator to provide its opinion on this finding.
7. The status of authorized operator shall be suspended without delay if this is necessary for reasons of security, safety of citizens, public health and the environment.
8. If the authorized operator fails to eliminate deficiencies referred to in paragraph 1, item 1 of this Article, within a period of time referred to in paragraph 4 of this Article, the customs authority shall suspend the status of authorized operator and inform the authorized operator thereof and determine additional deadline of 30 days to eliminate these deficiencies.
9. The period referred to in paragraph 6 of this Article may be extended for 30 days, if the applicant provides proof that in this period of time it eliminated the deficiencies identified.

**The effect of the suspension**

**Article 14**

1. Suspension shall not affect the customs procedures started prior to the suspension and not yet completed.
2. Suspension shall not affect other approvals issued to the authorized operator, unless the reasons for the suspension affect these approvals as well.
3. Suspension shall not affect the approval for the use of customs simplifications that have been assigned in obtaining the status of authorized operator and for which the conditions for their use are still met.
4. If the holder of the approval of the status of authorized operator for benefits referred to in Article 2, paragraph 1, item 3 of this Decree ceases to meet requirements from Article 9 of this Decree, this approval shall be suspended and at the request of the holder of the approval a new approval for benefits referred to in Article 2 paragraph 1 item 1 of this Decree may be issued.

**Cancellation of suspension**

**Article 15**

* 1. Suspension of the status of authorized operator shall be cancelled, if the business operator takes necessary measures to meet the conditions and criteria based on which the status of authorized operator was granted.
	2. In the case referred to in paragraph 1 of this Article, suspended status referred to in Article 14 paragraph 4 of this Decree shall be renews, and approval for the use of benefits referred to in Article 2, paragraph 1, item 1 of this Decree, shall be revoked if it was issued.
	3. If a business operator fails to take the necessary measures within a period referred to in Article 13 paragraphs 6 and 7 of this Decree, the status of authorized operator shall be revoked.
	4. In the case referred to in paragraph 3 of this Article, granting the status of authorized operator referred to in Article 14 paragraph 4 of this Decree for the use of benefits referred to in Article 2, paragraph 1, item 3 of this Decree shall be cancelled, and approval for the use of benefits referred to in Article 2, paragraph 1 item 1 of this Decree shall remain valid, if it was issued.

**Suspension at the request of an authorized operator**

**Article 16**

1. The authorized operator who is temporarily unable to fulfil the criteria and conditions laid down by this Decree, may request from the customs authority to suspend the status of authorized operator and determine the period (date) when it will again be able to fulfil these criteria and conditions, as well as the measures it plans to take and deadlines for their implementation.
2. If the authorized operator fails to eliminate the deficiencies within the time specified in the request referred to in paragraph 1 of this Article the status of authorized operator status shall be revoked.
3. Notwithstanding paragraph 2 of this Article, the customs authority may grant an extension of time for elimination of deficiencies, provided that the authorized operator acted in "good faith".

**Revocation of the status of authorized operator**

**Article 17**

1. Granting of the status of authorized operator shall be revoked:
2. if the authorized operator fails to take measures referred to in Article 15, paragraph 1 of this Decree;
3. if the authorized operator did serious violation of customs regulations and has no right to appeal anymore;
4. if the authorized operator fails to take the necessary measures in the period of suspension referred to in Article 16 of this Decree;
5. at the request of an authorized operator.
6. Notwithstanding paragraph 1, item 2 of this Article, the customs authority may decide not to revoke the status of authorized operator if, having regard to the number or extent of customs procedures of the authorized operator, it determines that violation of customs regulations is of negligible importance and is without prejudice to "good faith" of the authorized operator.
7. Revocation of the status of authorized operator shall apply from the day following the receipt of the decision on revocation of the status of authorized operator.
8. Business operator, within three years from the date of revocation of the status of authorized operator, cannot be granted a new status of authorized operator, except in cases of revocation referred to in paragraph 1 items 3 and 4 of this Article.

**Notification**

**Article 18**

The customs authority shall notify the special organizational unit responsible for risk analysis on the issuance, amendment, suspension or revocation of the status of authorized operator.

**Application**

**Article 19**

This Decree shall apply from the date of accession of Montenegro to the European Union.

**Entry into force**

**Article 20**

This Decree shall enter into force on the eighth day following that of its publication in the Official Gazette of Montenegro.

**No: 08-1359**

**Podgorica, 18 June 2015**

**Government**

**Prime Minister,**

**Milo Đukanović, sgd.**

**Annex 1**

**Template “RAEE”**

**REQUEST FOR GRANTING AEE[[1]](#footnote-1)**

Note: When completing the form, it is necessary to take into account the explanations

|  |  |
| --- | --- |
| 1. Applicant
 | To be completed by the customs authority |
| 1. Type of business activity
 | 1. Date of registration
 |
| 1. Address of the registered office
 |
| 1. Contact person (name, phone, fax, e-mail)
 |
| 1. TIN
 |
| 1. Requested type of approval

D Approval for AEE – customs simplificationsD Approval for AEE – security checksD Approval for AEE – customs simplifications/ security checks  |
| 1. Business activity
 |
| 1. Information on border crossings
 |
| 1. The customs office to which the customs documentation is submitted and which maintains the customs documentation and the customs office in the territory where the main accounting records are located
 |
| 1. Attached documents
 |
| 1. Place and date:

………………………… | 1. Name, signature and stamp of the applicant:

…………………………………………………. |

*Explanation:*

1. **Applicant**

Enter the full name of a business operator of the applicant.

1. **Type of business activity**

Enter the type of business activity for which the business operator is registered.

1. **Date of registration**

Enter numbers – date, month and year of registration.

1. **Address of the registered office**

Enter the full address of the registered office of the business operator.

1. **Contact person (name, phone, fax, e-mail)**

Enter first and last name, phone number, fax number and e-mail address of a person appointed by the business operator for contact with the customs authority which deals with requests.

1. **TIN**

Enter tax identification number.

1. **Requested type of approval**

Enter the x in the appropriate box.

1. **Business activity**

Describe the business activity.

1. **Information on border crossings**

Enter the border customs offices through which the transfer of goods is usually done.

1. **The customs office to which the customs documentation is submitted and which maintains the customs documentation and the customs office in the territory where the main accounting records are located**

Enter the name of the relevant customs office.

1. **Attached documents**

Enter the attached documents.

Note: The applicant shall submit the following information:

1. Overview of majority (main) owners/shareholders, specifying their full names and addresses and share in the capital. Overview of the members of the management board. Are the owners known to the customs authorities from before for non-compliance with customs regulations?
2. Information about the person responsible for customs matters in the economic operator.
3. Description of economic activity of the applicant.
4. Specify the place of business of separated parts of the applicant and describe in brief the activities of each of them. Specify whether the applicant and each of its separated parts acts in its own name and for its own account, or on its own behalf and for the account of another person, or acts on behalf and for the account of another person.
5. Specify whether the goods were bought by and/or delivered to economic entities that are associated with the applicant.
6. Describe the internal organization of the applicant. Enclose, if any, documentation of tasks/responsibilities for each sector and / or function.
7. Enter the data on the total number of employees and for each sector (service) in particular.
8. Enter the name and surname of the main managers (managing director, directors of all sectors, heads of all services, head of service for customs affairs, etc.). Enclose a description of the adopted procedures in situations where competent employees are absent, temporarily or permanently.
9. Enter the name and position of persons who have special expertise in the field of customs. Rating (estimate) of the level of knowledge of these persons in respect of the use of information technology in customs and commercial processes and general commercial matters.
10. **Place and date:**

Enter place and date of submission of the request.

1. **Name, signature and stamp of the applicant:**

Enter name of the applicant, signature by the authorized person and stamp verification.

**Annex 2**

**Template – AAEE**

**APPROVAL OF AUTHORIZED ECONOMIC OPERATOR**

|  |
| --- |
| …………………………….Approval number |
| 1. Holder of the approval for AEE
 | 1. Customs authority
 |
| Holder of the approval referred to in the box 1. isan authorized economic operator for D customs simplifications D security checks D customs simplifications/security checks |
| 1. Date of entry into force of the approval
 |

*Explanation:*

Approval Number

Approval number always begins with the following letter signs

OPSC for approval of AEE - customs simplifications
OPSC for approval of AEE - security checks

OPSC for approval of AEE - customs simplifications/security checks

After the mentioned letter signs national sign and number of approval are entered.

1. Holder of the approval for AEE

Enter the full name of the holder of the approval as stated in the box 1 of the template given in Annex 1, as well as TIN stated in the box 6 of the template given in Annex 1.

1. Customs authority

Enter the name of the customs authority issuing the approval, signature by the authorized person and stamp verification.

Type of approval

Enter the x in the appropriate box.

1. Date of entry into force of the approval

Enter the date of entry into force of the approval in accordance with Article 12 paragraph 1 of this Decree.

1. AEE – authorized economic operator [↑](#footnote-ref-1)