

DECREE 3568 OF 2011

(September 27)

Official Gazette No. 48,205 of September 27, 2011

<In effect as of November 1, 2011 (Art. 27)>

MINISTRY OF FINANCE AND PUBLIC CREDIT

By which the Authorized Economic Operator in Colombia is established.

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA,

In exercising the power granted to him in Clauses 11 and 25 of Article 189 of the Constitution, subject to Article 3 of Law 6 of 1971, Article 2 of Law 7 of 1991, and Article 45 of Law 489 of 1998, and heard by the Customs, Tariffs and Foreign Trade Committee, and

WHEREAS:

The World Customs Organization (WCO), in fulfilling its mission in light of the need to harmonize a safer commercial regime, facilitate world trade and provide a new approach to work and association between Customs and Companies, adopted the "Regulatory Framework to Secure and Facilitate Global Trade" in June 2005.

The aforementioned framework established the "Authorized Economic Operator" as a tool to achieve the objectives mentioned in the preceding whereas statement through a partnership between the public and private sectors, and defined it as a *"party that participates in the international movement of goods on behalf of the Customs Administration or in any function for which it was authorized, in accordance with the security regulations of the WCO. Authorized Economic Operators include, among others, importers, exporters, dispatchers, carriers, intermediaries, port, airport and terminal operators, distributors, and integrated and warehouse operators."*

Colombia is a member country of the World Customs Organization (WCO) and signed a letter of adherence to the Regulatory Framework to Secure and Facilitate Global Trade in 2008, committing to meet the objectives established therein.

Through session 217 of June 8, 2010, the Customs, Tariffs and Foreign Trade Committee recommended implementing the Authorized Economic Operator.

Designing and implementing the Authorized Economic Operator in Colombia is the product of collective construction between the National Government and the private sector, and responds to the partnership guidelines between public and private sectors established in the Customs-Company pillar of the WCO Regulatory Framework.

The Authorized Economic Operator in Colombia is a government initiative and will be implemented transversally involving the entities that directly participate in the process of goods entering and exiting the country, as well as those that indirectly promote the development of foreign trade in Colombia, in order to comprehensively guarantee conditions of security and competitiveness in international trade.

The Authorized Economic Operator includes becoming a tool for the security of the logistics chain, achieving better levels of competitiveness in companies and, in this way, strengthening commercial ties with third party countries through Mutual Recognition Agreements within its objectives.

It is necessary to establish a body that assesses the feasibility of the Authorized Economic Operator authorizations.

In accordance with the provisions of article 45 of Law 489 of 1998, the National Government may create intersectoral commissions for the coordination and superior orientation of certain functions and public services, when they are in charge of two or more ministries, administrative departments or decentralized entities by legal mandate or due to their characteristics, notwithstanding each of their specific powers.

In consideration of the above,

DECREES:

CHAPTER I. GENERAL PROVISIONS.

ARTICLE 1. PURPOSE. The purpose of this decree is to establish and regulate the Authorized Economic Operator in Colombia, in order to contribute to improving security in the international supply chain and trade facilitation, becoming a tool for security in the logistics chain, achieving better levels of competitiveness in companies and, in this way, strengthening commercial ties with third party countries through Mutual Recognition Agreements in the future.

In implementing this, an authorized Economic Operator is understood as individuals or legal entities established in Colombia, which, as part of the international supply chain, carry out activities regulated by customs legislation or supervised and controlled by the Superintendence of Ports and Transportation, the General Maritime Directorate or Special Administrative Unit of Civil Aeronautics. By complying with the conditions and minimum requirements established in this decree, they guarantee safe and reliable foreign trade operations and, therefore, are authorized as such by the Colombian Tax and Customs Authority.

ARTICLE 2. DEFINITIONS. For the purposes of applying this decree, the expressions it uses will have the meaning determined below:

Required Action. The activity that must be carried out to remedy the breach of established requirements to become and maintain authorization as an Authorized Economic Operator.

International Supply Chain. The network comprised of a group of foreign trade operators involved in the logistics process of the physical international distribution of merchandise from the place of origin to its destination, such as producers, manufacturers, exporters, importers, carriers, cargo agents, customs agents, authorized warehouses, ports, and others.

Secure Supply Chain. A supply chain in which each of the trade operators that are part of the logistics process complies with the conditions and requirements established in this decree and continuously adopt and implement best practices, comprehensively ensuring reliable foreign trade processes.

Cancellation of the Authorization as Authorized Economic Operator. The loss of authorization as an Authorized Economic Operator under the terms and conditions provided in this decree.

Technical Opinion. The competent control authorities' pronouncement on the level of compliance with the conditions and requirements to be Authorized Economic Operators by interested parties.

Legally Enforceable Debt. A payment obligation that is duly enforceable and that has not been issued an order admitting the claim in an action for annulment and reestablishment of rights.

Authorized Economic Operator Specialist. A public servant appointed by each Control Authority with the power to verify, validate and revalidate compliance with conditions, minimum requirements and obligations required of the interested party in light of current regulations and in exercising their functions.

Incident. An event, action or omission at any time, manner and place, that is a conduct described in national legislation or international treaties and agreements signed by Colombia as punishable. It affects the security of the international supply chain, including conducts that generate mass health risks that affect public health and animal and plant health.

Provisional Interruption of the Authorization as an Authorized Economic Operator. An immediate suspension of the benefits granted to the Authorized Economic Operator, under the terms and conditions provided in this decree.

Operations Officer. A public servant appointed by each Control Authority, who, in

the exercising their functions, provides continuous support to the Authorized Economic Operator in its foreign trade operations in each sectional, regional or departmental headquarters.

Suspicious Transaction. A transaction that can reasonably lead to concluding that it is hiding, concealing, securing, guarding, investing, acquiring, transforming or transporting any type of goods and services from criminal activities due to its number, quantity, frequency or characteristics, or when it is giving the operations or funds related to them the appearance of legality.

Authorized Economic Operator Lead Representative. The personnel appointed by the requesting party or Authorized Economic Operator as its representative before the Control Authorities, with respect to the activities of the Authorized Economic Operator.

Health Risk. The probability of an event occurring that may adversely affect the health of human, animal and plant populations, particularly considering the possibility that they may spread nationally or internationally.

Accepted Request to be an Authorized Economic Operator. A request presented before the Colombian Tax and Customs Authority that meets the prerequisites to obtain authorization.

Rejected Request to be an Authorized Economic Operator. A request presented before the Colombian Tax and Customs Authority that does not meet the prerequisites established in this decree to obtain authorization.

Denied Request to be an Authorized Economic Operator. A request that does not meet the minimum security requirements established by the control authorities to obtain authorization.

Effective Trajectory. Effective trajectory is understood as the permanent, continuous or habitual practice of operations corresponding to the nature of the activity carried out by the interested party, which will be verified by the competent entity when appropriate.

Type of User. <Definition added by article 1 of Decree 1894 of 2015. The new text is as follows:> Each one of the foreign trade operators involved in the logistics process of the international supply chain, such as exporters, importers, customs agents, international cargo agents, authorized warehouses, ports, airports and carriers, among others.

ARTICLE 3. GUIDING PRINCIPLES OF THE AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 2 of Decree 1894 of 2015. The new text is as follows:> The following will be guiding principles for operating and applying the Authorized Economic Operator program, in addition to those established in article 3 of Law 1437 of 2011, the Code of Administrative and Contentious-Administrative

Procedure and other regulations that modify, add to or replace it:

1. **Trust.** Control authorities and Authorized Economic Operators must base their actions on values of loyalty and integrity.
2. **Cooperation.** The control authorities and Authorized Economic Operators must maintain the maximum interest and adequate disposition to coordinate and perform the actions related to them at all times.
3. **Transparency.** The control authorities and Authorized Economic Operators must act within the framework of a security context, acting with integrity and objectivity, in such a way that the responsibilities, procedures and other established rules are carried out and informed clearly and allow the open participation of interested parties, in accordance with the provisions of clause 8 of article 3 of Law 1437 of 2011.

ARTICLE 4. CONTROL AUTHORITIES OF THE AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 3 of Decree 1894 of 2015. The new text is as follows:> In accordance with their powers, they will be responsible for the implementation, operational development and maintenance of the Authorized Economic Operator in Colombia, as authorities that must carry out supervision and control tasks in foreign trade operations by legal mandate, especially in the operational processes of goods entering or exiting the national customs territory. The following are the control entities:

1. The Colombian Tax and Customs Authority (DIAN) Special Administrative Unit
2. The Colombian National Police
3. The National Institute of Food and Drug Monitoring (INVIMA, for the Spanish original)
4. The Colombian Agricultural Institute (ICA, for the Spanish original)

PARAGRAPH. The Ministry of Commerce, Industry and Tourism, Superintendence of Ports and Transportation, General Maritime Directorate (Dimar), Special Administrative Unit of Civil Aeronautics, and other public authorities related to foreign trade operations may be linked as support, coordination or control authorities, according to the activity performed by the type of requesting user, the gradual implementation of the Authorized Economic Operator, and in accordance with their powers. The linkage of the support, coordination or control authorities will be regulated by means of a joint resolution issued by the Special Administrative Unit of the National Tax and Customs Directorate (DIAN, for the Spanish original) and the other control authorities that participate in the Authorized Economic Operator in the development of its gradualness.

CHAPTER II. THE AUTHORIZATION

ARTICLE 5. SCOPE. <Article modified by article 4 of Decree 1894 of 2015. The new text is as follows:> The authorization granted as an Authorized Economic Operator will be voluntary, its process will be free, and small, medium and large companies will be able to access it. This authorization is not a requirement to carry out foreign trade operations or a way of representing third parties.

Those interested in obtaining authorization as an Authorized Economic Operator may access one of the following categories:

1. AEO security and facilitation category: The authorization granted after verification of compliance with the conditions and requirements established in this decree, in order to guarantee security in the international supply chain according to the standards of the Regulatory Framework to Secure and Facilitate Global Trade of the World Customs Organization (WCO), which consequently entail obtaining benefits in terms of facilitating foreign trade operations.

2. AEO safety and health facilitation category: The authorization granted after verification of compliance with the conditions and requirements established in this decree, in order to guarantee security in the international supply chain according to the standards of the Regulatory Framework to Secure and Facilitate Global Trade of the World Customs Organization (WCO). Additionally, it includes conditions and requirements for health, zoosanitary and phytosanitary protection, and consequently entails obtaining benefits in terms of facilitating foreign trade operations.

PARAGRAPH. The control authorities referenced in article 4 of this decree, which will participate in implementing and developing the authorization in each AEO category, in accordance with their powers and according to the activity carried out by each type of user, will be indicated by a joint resolution issued by the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit and other control authorities that participate in the Authorized Economic Operator program.

ARTICLE 6. CONDITIONS TO REQUEST AND MAINTAIN THE AUTHORIZATION AS AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 5 of Decree 1894 of 2015. The new text is as follows:> To request and maintain the authorization as Authorized Economic Operator, the interested party or authorized party must comply with and prove the following conditions, which will be checked by the Control Authorities:

6.1. For the AEO security and facilitation category, they must meet the following conditions:

6.1.1. They must be domiciled and accredit incorporation and legal representation in the country.

6.1.2. In the case of legal entities or branches of foreign companies, they must be duly established in Colombia at least three (3) years before submitting the request.

Once authorization as an Authorized Economic Operator has been obtained, the legal entity or branch of a foreign company must accredit their permanence in Colombia for the revalidation discussed in this decree.

6.1.3. They must be registered and active in the Unique Tax Registry, with the type of customs user and activity for which they are requesting authorization as Authorized Economic Operators.

6.1.4. They must have an effective trajectory of at least three (3) years performing the activity for which the authorization is requested, immediately before presenting the request, in the terms provided in the definition of article 2 of this decree.

Once the authorization as an Authorized Economic Operator has been obtained, they must accredit their effective trajectory performing the activity for the revalidation that discussed in this decree.

6.1.5. They must have the authorizations, records, opinions, qualifications, declarations, licenses, permits or whatever their name may be to carry out their activity required by the control authorities according to current regulations, when applicable.

6.1.6. They must obtain a favorable rating from the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit, in accordance with the verifications carried out in applying the Risk Management System referenced in article 475-1 of Decree number 2685 of 1999 or the regulations that modify, add or replace it.

6.1.7. They must not have been subject to sanctions imposed by means of an enforceable administrative act during the two (2) years prior to submitting the application, due to situations that affect security in the international supply chain, issued by the authorities provided in the paragraph of article 4 of this decree, as long as said authorities participated in the Authorized Economic Operator authorization process, in accordance with the provisions of the regulatory resolution.

6.1.8. They must be up to date or have current and updated payment agreements on tax and customs obligations, exchange sanctions and other legally enforceable debts in favor of the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit.

6.1.9. They must be up to date or have current or updated payment agreements

on debts related to the surveillance fee and consideration and on the other legally enforceable debts in favor of the control authorities provided in the paragraph of article 4 of this decree, as long as these authorities participated in the Authorized Economic Operator authorization process, in accordance with the provisions of the regulatory resolution.

6.1.10. The interested party and its partners, shareholders, members of boards of directors, legal representatives, accountants, statutory auditors, customs representatives and direct and indirect controllers must:

a) They must not have a criminal record due to punishable conducts against economic assets, the public faith, the economic and social order or public safety, which will be evident after consulting the databases established and provided by national and international organizations or entities in the fight against terrorism, drug trafficking, money laundering, smuggling and other related crimes, seeking to guarantee the security of the international supply chain.

b) They must not have been subject to security incidents in the international supply chain due to smuggling or currency, drug, arms, people, radioactive material, and other types of trafficking, within the five (5) years prior to submitting the request, unless the absence of liability has been demonstrated as a consequence of the respective investigation.

6.1.11. The partners, shareholders, members of the boards of directors, legal representatives, accountants, statutory auditors, customs representatives and direct and indirect controllers of the requesting party must not have represented companies that have been subject to the cancellation of their authorization, approval or registration granted by the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit, during the five (5) years immediately prior to presenting the request.

6.1.12. They must not have been penalized with the cancellation of their authorization, approval or other qualities granted by the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit, during the five (5) years prior to presenting the request.

6.1.13. They must demonstrate financial solvency for the last three (3) years of operation. Once they have obtained the authorization as Authorized Economic Operators, their financial solvency must be accredited at the time of the revalidation discussed in this decree.

6.2. In addition to the above conditions, the following must be met for the AEO safety and health facilitation category:

6.2.1. Not having been subject to penalties imposed by means of an enforceable administrative act issued by the Colombian Agricultural Institute (ICA), with respect

to non-compliance with animal and phytosanitary conditions during the two (2) years prior to submitting the request.

6.2.2. Being up-to-date on paying the legally required services and obligations in favor of the Colombian Agricultural Institute (ICA) or having current payment agreements on said obligations and being up-to-date on them.

6.2.3. Not having been subject to sanitary penalties imposed by means of an enforceable administrative act issued by the National Institute of Food and Drug Monitoring (Invima), due to non-compliance with good practices in health, technical location and quality control conditions, as well as in the storage capacity and conditioning related to the products of the Entity's competence during the two (2) years prior to submitting the request.

PARAGRAPH 1. In the event the interested party, due to special circumstances derived from mergers, absorptions, spin-offs, or the establishment of new investments or subsidiaries of foreign companies in the country, does not comply with the conditions established in clauses 6.1.2 and 6.1.4 of this article, the Technical Committee of the Authorized Economic Operator mentioned in article 19 of this decree will evaluate the standardization of the related experience, considering the experience of the controlling or parent company, as long as it is possible to validate said condition for these last two cases.

PARAGRAPH 2. For the purposes of the provisions of clauses 6.1.10 and 6.1.11 of this article and with regard to open corporations, only shareholders with an individual share of greater than 30% of the share capital will be considered.

PARAGRAPH 3. In the event the conditions established in this article are not met, the interested party will be informed for them to demonstrate compliance with them, if applicable, within the terms provided by general resolution. If the terms expire and compliance with all the conditions has not been demonstrated, the request will be rejected, and no appeals may be made against the rejection.

PARAGRAPH 4. To access the AEO safety and health facilitation category, the interested party may opt for individual or simultaneous compliance with the conditions required in clauses 6.2.1 and 6.2.2 or clause 6.2.3. Consequently, they will only access the benefits of the supervisory authority before which compliance with the conditions was accredited.

PARAGRAPH 5. When the qualification mentioned in clause 6.1.6. of this article is unfavorable, the requesting party will be personally notified by the department of the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit that issues it. Appeals for reversal against this qualification may be made before said department and its hierarchical superior, respectively, in accordance with the provisions of Law 1437 of 2011. Filing appeals will suspend the request for authorization as an Authorized Economic Operator. Once the decision is adopted, the corresponding administrative procedure will continue.

PARAGRAPH 6. If the authorization, approval or other registrations granted by the Colombian Tax and Customs Authority are canceled due to inactivity in terms of using them, they will not be taken into account as background for applying the provisions of clauses 6.1.11 and 6.1.12 of this article.

ARTICLE 7. MINIMUM REQUIREMENTS TO REQUEST AND MAINTAIN THE AUTHORIZATION AS AN AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 6 of Decree 1894 of 2015. The new text is as follows:> In order to request and maintain authorization as an Authorized Economic Operator, the interested or authorized party must comply with the minimum requirements established by the control authorities by means of a general resolution for each type of user in the international supply chain, in addition to the conditions indicated in the previous article.

7.1. For the AEO security and facilitation category, the requirements must follow the standards, practices and procedures established in the Regulatory Framework to Secure and Facilitate Global Trade of the World Customs Organization (WCO).

7.2. For the AEO security and health facilitation category, in addition to the above, the requirements must guarantee:

7.2.1 Phytosanitary and zoosanitary safety

7.2.2. Health Safety

PARAGRAPH. To access the AEO safety and health facilitation category, the interested party may opt for individual or simultaneous compliance with the requirements of clauses 7.2.1 and 7.2.2. Consequently, they will only access the benefits of the supervisory authority before which compliance with the requirements was accredited.

ARTICLE 8. BENEFITS GRANTED TO THE AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 7 of Decree 1894 of 2015. The new text is as follows:> The Authorized Economic Operator will have the following benefits according to the type of user and category for which the authorization was granted:

8.1. For the AEO security and facilitation category, the benefits will be the following:

8.1.1. Recognition as a safe and reliable operator in the supply chain by the control authorities referenced in article 4 of this decree.

8.1.2. Assignment of an operations officer by each one of the control authorities, who will provide support in their operations.

8.1.3. Participation in the Authorized Economic Operators Congress.

8.1.4. Participation in training activities scheduled for Authorized Economic Operators on issues within their competence by the control authorities.

8.1.5. A decrease in the number of recognition procedures and physical and documentary inspections for export, import and customs transit operations by the Colombian Tax and Customs Authority, and a decrease in the number of physical inspections for export operations by the Colombian National Police.

8.1.6. Use of special and simplified procedures for carrying out recognition or inspection procedures, as the case may be, when these are determined as a result of risk analysis systems by the control authorities.

8.1.7. Use of special channels and mechanisms to carry out foreign trade operations completed before the control authorities, in accordance with the provisions of a general resolution issued by the aforementioned authorities.

8.1.8. Direct action by exporters and importers as declarants before the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit in the import, export and customs transit regimes.

8.1.9. Recognition of merchandise in the terms indicated in the customs legislation for importers, when they act as declarants and require it.

8.1.10. A reduction in the amount of global guarantees taken out before the Colombian Tax and Customs Authority, under the terms and conditions established by the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit.

8.1.11. Authorization to inspect goods to be exported ordered by the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit at the exporter's facilities and authorized warehouse, when applicable.

8.1.12. Presentation for exporters of the Request for Global Shipment Authorization with partial shipments, discussed in Decree 2685 of 1999, or the rules that modify, add to or replace it.

8.1.13. The consolidation of customs taxes, sanctions and interest payments that may apply in customs matters, in the case of an importer acting as declarant, under the same terms and conditions established in article 34 of Decree 2685 of 1999 and other rules that add to, modify or replace it.

8.1.14. Non-intrusive inspection of export operations by the Colombian National Police, as long as the port, airport or border crossing has the technological tools for this control. This is notwithstanding the power to carry out a physical inspection when the circumstances warrant it.

8.1.15. Inclusion of the authorization as Authorized Economic Operator as one of the variables to be considered in the Risk Management System of the Single Window for Foreign Trade (VUCE, for the Spanish original), to obtain a faster response in request evaluations.

8.2. For the AEO security and health facilitation category, the following will be available in addition to the previous benefits:

8.2.1. The authorization to inspect merchandise subject to export ordered by the Colombian Agricultural Institute (ICA) in the exporter's facilities and authorized warehouse, when applicable.

8.2.2. A decrease in the number of physical inspections for export operations by the Colombian Agricultural Institute (ICA).

8.2.3. A decrease in the number of physical inspections for export operations by the National Institute of Food and Drug Monitoring (Invima).

8.2.4. The authorization to inspect goods subject to export ordered by the National Institute of Food and Drug Monitoring (Invima) at the exporter's facilities and authorized warehouse, when applicable.

PARAGRAPH 1. The benefits of the authorization as an Authorized Economic Operator are not transferable. Therefore, they may only be used by Authorized Economic Operators, according to the type of user for which it was authorized, in accordance with the regulations established for that purpose.

PARAGRAPH 2. The operating benefits provided in this article will be granted notwithstanding the legal powers entities have in applying their risk analysis systems and performing subsequent control functions.

PARAGRAPH 3. The operating benefits provided in this article will be granted according to the category and type of user authorized as an Authorized Economic Operator, which will be regulated by means of a general resolution issued by the control authorities that participate in the Authorized Economic Operator authorization process, in accordance with their powers.

ARTICLE 9. PROCEDURE TO OBTAIN AUTHORIZATION AS AN AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 8 of Decree 1894 of 2015. The new text is as follows:> The following will be the stages to obtain authorization as an Authorized Economic Operator:

1. Processing and presenting the request through the Electronic Computer Services of the Colombian Tax and Customs Authority (DIAN) Special Administrative Unit.

2. The control authorities verifying compliance with conditions, as appropriate.
3. Accepting or rejecting the request.
4. The control authorities analyzing and studying the company.
5. A validation visit by the competent control authorities.
6. The control authorities preparing technical opinions.
7. Issuing the administrative act with the final decision on the authorization request, authorizing or denying it, by the Colombian Tax and Customs Authority.

PARAGRAPH 1. The stages provided in this article and its terms will be regulated by means of a general resolution issued by the control authorities referenced in this decree.

PARAGRAPH 2. Appeals for reversal apply against the administrative act with the decision of the authorization request signed by the General Director of the Colombian Tax and Customs Authority, under the terms and conditions established in Law 1437 of 2011 or the regulations that modify, add to or replace it.

ARTICLE 10. VALIDITY OF THE AUTHORIZATION AS AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 9 of Decree 1894 of 2015. The new text is as follows:> The authorization granted by the Colombian Tax and Customs Authority to Authorized Economic Operators is valid for an indefinite period, unless any of the causes that lead to the provisional interruption or cancellation of the authorization as Authorized Economic Operator occurs, as provided in articles 12 and 13 of this decree.

ARTICLE 11. REVALIDATION. In order to make sure the Authorized Economic Operator maintains compliance with the established conditions, obligations and requirements, the Colombian Tax and Customs Authority will coordinate with the Control Authorities to carry out periodic revalidation visits. Notwithstanding the above and for the same purpose, other mechanisms considered pertinent to verify compliance may be used.

If non-compliance with the requirements is detected during the revalidation visit, it will proceed to indicate it and establish the required actions in the corresponding report, which the interested party must implement within ten (10) days after the presentation of the report. If this term expires and the required actions have not been performed, the procedure provided in article 14 of this decree will begin.

PARAGRAPH 1. The administrative act that authorizes an Authorized Economic Operator is an act subject to conditions. Therefore, when the conditions and requirements for which it was authorized are not met, it will be interrupted and canceled under the terms and conditions set forth in this decree.

PARAGRAPH 2. The methodology and frequency of the revalidation will be established by means of a general resolution issued by the control authorities referenced in article 4 of this decree.

ARTICLE 12. PROVISIONAL INTERRUPTION OF THE AUTHORIZATION AS AN AUTHORIZED ECONOMIC OPERATOR. The provisional interruption of the authorization as an Authorized Economic Operator is a precautionary measure that immediately leads to the suspension of benefits, and will be adopted after the analysis and opinion issued by the Technical Committee of the Authorized Economic Operator discussed in article 19 of this decree. It will apply for any one of the following reasons:

1. Failure to comply with the conditions, obligations or requirements indicated in this decree and the provisions that regulate the matter.
2. The occurrence of an incident in which their responsibility is compromised.
3. The loss or cancellation of the qualities granted by the Control Authorities.
4. A provisional suspension decreed by the customs authority in the terms provided in the customs and foreign trade regulations or the regulations that modify, add to, replace or regulate them.
5. A provisional suspension decreed by the Colombian Tax and Customs Authority under the terms provided in Decree 2645 of 2011 or the rules that modify, add to or replace it.
6. By order of a judicial authority.
7. At the request of the party.

PARAGRAPH. The provisional interruption will be carried out according to the procedure provided in article 14 of this decree, except in the case of a request by the Authorized Economic Operator, provided in clause 8 of this article, in which case the request will be processed and the corresponding act will be issued.

ARTICLE 13. CANCELLATION OF THE AUTHORIZATION AS AUTHORIZED ECONOMIC OPERATOR. The following are grounds for canceling the authorization:

1. Failure to comply with the actions required to correct the situations that have

led to a provisional interruption of the authorization as an Authorized Economic Operator within the established term.

2. When the result of an incident investigation by the competent authorities determines the Authorized Economic Operator's responsibility.
3. Having obtained authorization as an Authorized Economic Operator by using irregular or fraudulent means, duly verified by the competent authorities.
4. Losing the quality or qualities granted by the Control Authorities.
5. By court order.
6. At the request of the party.

PARAGRAPH. The authorization's cancellation will be issued by means of an administrative act, after an analysis and decision by the Technical Committee referenced in article 19 of this decree and once the procedure provided in article 14 of this decree has been fulfilled, except in the case of a request from the Authorized Economic Operator provided in clause 6 of this article. In this case, the request will be processed and the corresponding administrative act will be issued without implementing the precautionary measure of provisional interruption, or the procedure provided in article 14 of this decree.

ARTICLE 14. PROCEDURE TO ORDER THE PROVISIONAL INTERRUPTION AND CANCELLATION OF THE AUTHORIZATION.

1. An act that orders the provisional interruption. For this purpose, within five (5) days after becoming aware of the occurrence of the events set forth in article 12 of this decree, the competent official of the control authorities will notify it to the Technical Committee of the Authorized Economic Operator discussed in article 19 of this decree, which must decide on whether or not to adopt the measure, within a maximum term of five (5) days after receiving the communication.

Once the decision regarding the precautionary measure has been adopted within the following five (5) days, the competent official of the Colombian Tax and Customs Authority must issue the act in which the provisional interruption of the authorization as Authorized Economic Operator is ordered, indicating the events for which the measure was adopted, the legal basis, supporting evidence, and the maximum term defined by the control authorities for the Authorized Economic Operator to correct the situations that caused the provisional interruption or demonstrate compliance with the actions required, when it applies. This is except for situations classified as incidents or those provided in clause 4 of article 12 of this decree, which cannot be remedied.

The act of provisional interruption is a precautionary measure not subject to any

appeal and will be notified according to the provisions of articles 564 and 567 of Decree 2685 of 1999 or the regulations that modify, add to or replace it.

2. Objection Document Presentation. Once the above procedure has been completed, the Authorized Economic Operator must present their objections, and request and present the evidence it considers appropriate to invalidate the cause of the provisional interruption and cancellation process, when they case may be, within fifteen (15) days after the notification.

3. Probationary period. Within ten (10) days after receiving the objection document to the administrative act of provisional interruption, the examination of the requested evidence that is conducive, effective, pertinent and necessary to clarify the investigated facts will be decreed by reasoned order. Any evidence that is not will be denied and the examination of those considered relevant and necessary will be ordered ex officio.

The same order will decree a new examination or execution of the evidence included in the objections document, when they have not been examined in due form or require execution.

The order that decrees the tests must be notified by state, in accordance with the provisions of article 566 of Decree 2685 of 1999 or the regulations that modify, add to or replace it. When evidence is denied, appeals for reversal will apply, which must be filed within five (5) days after the notification and resolved within five (5) days after filing.

The term for examining the evidence will be two (2) months if in the country and four (4) months when it must be examined abroad, and will run as of the execution of the enforceability of the act that decreed it.

The objections and evidence presented to adopt the precautionary measure will be resolved jointly with the administrative act that with the final decision regarding the cancellation of the authorization, as applicable.

4. Demonstration of compliance with required actions. At any stage of the process, and even before the final decision is made, the Authorized Economic Operator may present a document acknowledging the grounds for the provisional interruption and present the evidence that demonstrates compliance with the required actions under the terms of section 2 of clause 1 of this article.

5. Administrative act with the final decision. If the term to present objections has expired and none have been presented, as well as the term of the probationary period, if applicable, and the term to comply with the required actions discussed in clauses 1 and 4 of this article, the Technical Committee of the Authorized Economic Operator referenced in article 19 of this decree must issue a binding opinion regarding the facts subject to investigation to the Colombian Tax and Customs Authority within the following ten (10) days. Said entity will have forty-five

(45) days as of this date to make a final decision by means of a reasoned decision on the cancellation of the authorization.

If the administrative act with the final decision resolves to archive the investigation and lift the precautionary measure, it must order the measures considered necessary to guarantee the immediate restoration of the Authorized Economic Operator's benefits in carrying out its operations.

PARAGRAPH 1. <Paragraph modified by article 10 of Decree 1894 of 2015. The new text is as follows:> Appeals for reversal apply against the administrative act signed by the General Director of the Colombian Tax and Customs Authority canceling the authorization, under the terms and conditions established in Law 1437 of 2011 or the regulations that modify, add to or replace it.

PARAGRAPH 2. If incidents occur, the provisional interruption measure may not be lifted and the cancellation process may not be defined, while the results of the investigation are being obtained by the competent authority and prior to the opinion of the Technical Committee of the Authorized Economic Operator discussed in article 19 of this decree. Therefore, the process will be suspended as of the expiration date of the probationary period and until the pronouncement by the competent authority. Once the ruling has been obtained, if it is condemning, the cancellation will proceed according to the procedure in this article. Otherwise, the provisional interruption measure will be lifted and the benefits will be restored to the Authorized Economic Operator.

CHAPTER III. OBLIGATIONS.

ARTICLE 15. OBLIGATIONS OF THE AUTHORIZED ECONOMIC OPERATOR.
The following are the obligations of the Authorized Economic Operator:

1. To permanently comply with the conditions and minimum requirements under which the authorization was granted.
2. To inform the Colombian Tax and Customs Authority of any change or development regarding compliance with the conditions and minimum requirements of the Authorized Economic Operator.
3. To report any suspicious transactions and warning signs they detect in performing their activities and that could be punishable conducts under the terms and conditions provided in current regulations to the competent authorities.
4. To report events that may generate health risks in the development of their operations to the competent authorities, as the case may be.
5. To allow, facilitate and attend validation and revalidation visits, as well as the

requirements of the control authorities, in a timely manner.

6. To advertise themselves as Authorized Economic Operators, only as of the date of notification of the corresponding authorization, and to stop doing so from the moment the administrative act ordering its cancellation is notified.

7. To appoint an Authorized Economic Operator Lead Representative and alternate, and report any change in said appointment to the control authorities in a timely manner.

8. To use the Authorized Economic Operator authorization exclusively to carry out its own operations and activities, and those related to the type of user for which it was authorized.

ARTICLE 16. OBLIGATIONS OF THE CONTROL AUTHORITIES OF THE AUTHORIZED ECONOMIC OPERATOR. The following will be the obligations of the control authorities of the Authorized Economic Operator:

1. To establish and define a technical team within each entity, which provides continuous support to the activities required by the Authorized Economic Operator model.

2. To provide support in all required activities through specialists and operations officers that are necessary in each sectional, regional or departmental office, as appropriate.

3. To verify the conditions and carry out inter-institutional validation and revalidation visits free of charge, when necessary.

4. To issue the technical opinions for the applications submitted by the interested parties, when appropriate.

5. To grant Authorized Economic Operators the benefits established in article 8 of this decree, in accordance with the powers of each entity.

6. To participate in conferences, training sessions and other events that promote strengthening the Authorized Economic Operator.

7. To guarantee the fulfillment of the other functions created in the Authorized Economic Operator's development by means of a general resolution issued by the control authorities referenced in article 4 of this decree.

ARTICLE 17. POWERS OF THE CONTROL AUTHORITIES. <Article modified by article 11 of Decree 1894 of 2015. The new text is as follows:> Public servants who verify compliance with the conditions and requirements to grant the Authorized Economic Operator's authorization, maintenance, provisional interruption or

cancellation, will act within the framework of the regulations and powers established in each one of the entities they represent and according to the provisions of this decree

CHAPTER IV. CONSULTATION, COORDINATION AND DECISION-MAKING BODIES.

ARTICLE 18. ADVISORY GROUP. In order to create mechanisms to strengthen the partnership between the public and private sectors, have communication channels between the business sector and government entities, and receive contributions that play a part in developing the Authorized Economic Operator program, an advisory group will be established, which will be made up of private sector representatives involved in different links of the international supply chain. The operating methodology of this advisory group will be established by means of a general resolution.

ARTICLE 19. TECHNICAL COMMITTEE OF THE AUTHORIZED ECONOMIC OPERATOR. This is a decision-making body made up of the General Director of the Colombian Tax and Customs Authority or their alternate, who will preside over the committee, and the Directors or Managers of the control authorities or their alternates, with the power to make decisions. Public servants whose technical competence is required in each case may attend the committee sessions as guests.

The following are the functions of the Technical Committee of the Authorized Economic Operator:

1. Making decisions in the cases mentioned in paragraph 1 of article 6 of this decree regarding the verification of the company's incorporation and effective trajectory conditions in the event of a merger, absorption or spin-off.
2. Making decisions in the cases that lead to the provisional interruption and cancellation of the authorization as Authorized Economic Operator.
3. Resolving disputes that may arise in performing the activities inherent to the authorization and revalidation process.
4. All others indicated in its internal regulations.

The Committee's Technical Secretary will be the Colombian Tax and Customs Authority.

PARAGRAPH. The operation and frequency of committee meetings will be regulated by means of a general resolution issued by the control authorities referenced in article 4 of this decree.

ARTICLE 20. INTERSECTORAL COMMISSION OF THE AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 12 of Decree 1894 of 2015.

The new text is as follows:> Create the Intersectoral Commission of the Authorized Economic Operator, whose purpose will be to establish and direct the authorization policy of the Authorized Economic Operator.

ARTICLE 21. STRUCTURE OF THE INTERSECTORAL COMMISSION OF THE AUTHORIZED ECONOMIC OPERATOR. The commission will be made up of:

1. The Minister of Finance and Public Credit, who will be chairperson, or their delegate.
2. The Minister of National Defense or their delegate.
3. The Minister of Commerce, Industry and Tourism or their delegate.
4. The General Director of the National Police or their delegate.
5. The General Director of the Colombian Tax and Customs Authority or their delegate.
6. The Superintendent of Ports and Transportation, when applicable.
7. The General Director of the Special Administrative Unit of Civil Aeronautics, when applicable.
8. The General Director of the INVIMA, when applicable.
9. The General Manager of the ICA, when applicable.

The following will be permanent guests of the Intersectoral Commission of Authorized Economic Operator:

1. The High Presidential Advisor for Public and Private Management or whoever acts on their behalf.
2. The Customs Management Director of the Colombian Tax and Customs Authority.
3. The President of Proexport or their delegate.

PARAGRAPH. The members of the commission may be represented by a delegate, in accordance with the provisions of article 9 of Law 489 of 1998. In the case of the Director of the Colombian Tax and Customs Authority, their delegate must be the Customs Management Director. When it comes to entities, such as the Colombian Agricultural Institute (ICA) and the National Institute of Food and Drug

Monitoring (Invima), their delegates may be the deputy director or deputy manager of the department that regulates, controls, or monitors the activity for which authorization is sought.

ARTICLE 22. FUNCTIONS OF THE INTERSECTORAL COMMISSION OF THE AUTHORIZED ECONOMIC OPERATOR. <Article modified by article 13 of Decree 1894 of 2015. The new text is as follows:> The following are the functions of the Commission:

1. Coordinating the Authorized Economic Operator policy and serving as a coordination authority between the different public and private actors.
2. Promoting and coordinating cooperation mechanisms between national and international entities in matters related to the Authorized Economic Operator.
3. Formulating guidelines that promote strengthening, evaluating and monitoring the management and development of Authorized Economic Operators.
4. Providing its own regulations, which must standardize the technical and methodological presentation of the preparation of minutes.
5. Establishing the functions of the Technical Secretary.

PARAGRAPH. The Technical Secretary of the Commission will be under the responsibility of the Special Administrative Unit of the Colombian Tax and Customs Authority (DIAN).

CHAPTER V. FINAL PROVISIONS.

ARTICLE 23. OPERABILITY. The Colombian Tax and Customs Authority, along with the competent control authorities, will issue the necessary provisions to guarantee this decree's operation.

ARTICLE 24. GRADUALNESS IMPLEMENTING THE AUTHORIZED ECONOMIC OPERATOR PROGRAM. In order to ensure efficiency implementing the Authorized Economic Operator in Colombia, it will be done gradually by type of user, starting with exporters. For other users who are part of the international supply chain, which will enter the program later, the opening term to submit the request will be defined by a general resolution issued by the control authorities referenced in article 4 of this decree, according to the development and operational and logistical evolution of the model.

PARAGRAPH 1. <Paragraph added by article 14 of Decree 1894 of 2015. The new text is as follows:> In the event a user submits a new application to access an AEO authorization in a category or type of user other than the one already

authorized within the year after obtaining their authorization as Authorized Economic Operator, the control authorities will only validate compliance with the additional conditions and requirements to be met for the new category and/or type of user.

PARAGRAPH 2. <Paragraph added by article 14 of Decree 1894 of 2015. The new text is as follows:> In accordance with the gradualness provided in this article, a request for authorization as an Authorized Economic Operator may be submitted simultaneously for the different types of user held by the applicant. The authorization will only be granted to them or the types of users for which compliance with the conditions and requirements established in this decree has been accredited. The Colombian Tax and Customs Authority (DIAN) Special Administrative Unit may issue a unique administrative act of Authorized Economic Operator authorization that includes different types of users for the same applicant.

ARTICLE 25. EVALUATION AND FOLLOW UP ON THE AUTHORIZED ECONOMIC OPERATOR. The control authorities, along with the advisory group referenced in article 18 of this decree, will establish a methodology to evaluate the effectiveness of the Authorized Economic Operator in Colombia, seeking to propose improvement actions.

ARTICLE 26. APPLICABLE PROCEDURE IN NON-REGULATED ASPECTS. In terms of aspects not regulated by this decree, for the Authorized Economic Operator authorization and other procedures related to it, the rules set forth in Decree 2685 of 1999 and the provisions that modify, add to or replace it will apply.

ARTICLE 27. TERM. This decree will be published in the *Official Gazette* and will be effective as of November 1, 2011.

To be published and enforced.
Issued in Bogotá, D.C. on September 27, 2011.

JUAN MANUEL SANTOS CALDERÓN

The Minister of Finance and Public Credit,
JUAN CARLOS ECHEVERRY GARZON.

The Minister of National Defense,
JUAN CARLOS PINZÓN BUENO.

The Minister of Agriculture and Rural Development,
JUAN CAMILO RESTREPO SALAZAR.

The Minister of Social Protection,
MAURICIO SANTA MARIA SALAMANCA.

The Minister of Commerce, Industry and Tourism,
SERGIO DÍAZ GRANADOS.

The Minister of Transportation,
GERMAN CARDONA GUTIERREZ.

The Administrative Department of Public Function,
ELIZABETH RODRIGUEZ TAYLOR.