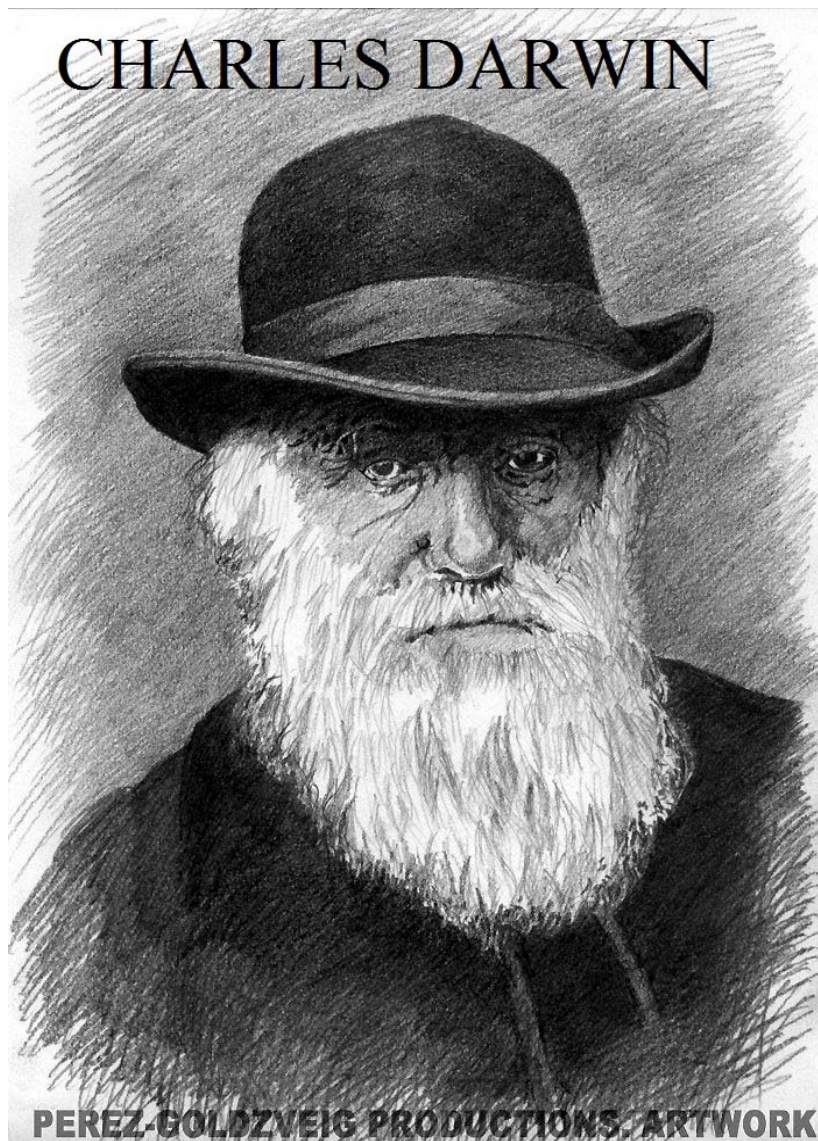


***PYSDENS SOLICITORS
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K. PYSDEN / S. PEREZ-GOLDZVEIG / E. DURAN SASTRE
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(AUTHORISED) ECONOMIC OPERATORS¹ / “ROTTERDAM RULES”: THE DIFFICULTIES THAT THE COMMERCIAL COMMUNITY FACES UNDER INCREASING LEGAL AND COMMERCIAL REQUIREMENTS.

1. **Compliance with the law:** The law is there to be complied with and therefore any economic operator² should comply with the obligations imposed by customs legislation.
2. **Is AEO certification anti competitive?:** It could be said that large and medium commercial entities are better equipped to comply with voluntary commercial programmes such as AEO than smaller firms due to the fact that compliance involves having in place a framework across the commercial infrastructure, systems and operations as well as having the necessary personnel to oversee compliance which is costly. This issue gives rise to several questions: does AEO³ create a “wide multi-report” system of compliance covering the law on security, safety and customs regulations and international certificates⁴ for which the relevant customs authority is responsible in case of non compliance? Does AEO thereby create commercial elitism rather than improving standards as a matter of fact⁵? Does AEO create any difference between commercial and legal standards? Does AEO stretch resources for small firms creating difficulties with their commercial operations and therefore leading to the potential demise of such commercial ventures whether they decide to seek AEO status or not? Is it right

¹ Read “ WCO Research Paper No. 14 - Compendium of Authorized Economic Operator Programmes 2011 edition - Mariya Polner”

² “economic operators as defined in Article 1.12 of CCIP, according to which: “Economic operator means: a person who, in the course of his business, is involved in activities covered by customs legislation”. TAXUD/2006/1450 P. 8.

³ “An Authorised Economic Operator can be defined as an economic operator who is reliable throughout the Community in the context of his customs operations, and therefore, is entitled to enjoy benefits throughout the Community. An AEO certificate, as laid down in Article 14b of the CCIP, provides an easier admittance to customs simplifications, or it entitles the holder to facilitations concerning security and safety controls. In addition, there are benefits which are open to all categories of AEO, such as, among others, fewer physical and document based customs controls (unless other Community legislation prescribes a fixed amount).

Economic operators can also request a joint certificate (“Customs simplifications” together with “security and safety”) comprising all benefits referred above.”

TAXUD/2006/1450 p. 6.

⁴ “At the site visits your company should show the Customs administration that you have adequate internal procedures in place, in order to manage your customs and / or security and safety matters, and adequate internal controls in order to assure that those procedures work properly. **Internal policies and/or instructions must be documented either electronically or in paper form. They must be known within the organization, be available to all users and of course continuously updated.**” “Explanatory notes for AEO-Self Assessment Questionnaire” p.2.

⁵ We have called on economists such as Mr. Joseph Stiglitz (Nobel Prize for Economics 2001) to review these schemes on a number of occasions in order to seek their comments on their effects on the development of commerce

- that a business that seeks and fails to achieve AEO status is damaged thereby, despite its full compliance with the law?
3. **New legal requirements:** Any new legal requirements should have robust consultation process involving those to be affected by the same. Is it the case that those in charge of programmes such as the US-CTPAT / CUSTOMS AEO / EU AEO are bringing these into existence with a view to bringing about international legislation in the form of Conventions on the basis that they are extensively used already so why not create new legislation for all?⁶
 4. **Final comment:** There are many questions that need to be answered in relation to AEO and other similar programmes, initiatives and frameworks. For example: should a commercial entity which does not receive an AEO certificate stop its commercial operations in the European Community because is not “*reliable throughout the Community in the context of his customs operations*”?⁷ Should this non reliability be extended to the rest of the world? If the answer is not, then what is the value of an AEO certificate on a worldwide basis and does it create unfair competition within in the EU?

We at Pysdens Solicitors make every effort to keep our expenses to a minimum in order to pass our savings to our clients. Our fees are very competitive which, in times of economic difficulties, is important to consider. Our policy is to resolve disputes early rather than to litigate.

Disclaimer: This is not legal advice. We cannot advise any party to act based on this report without first consulting a specialised solicitor. The opinions in this report are those of the writers.

Note: In producing this press release by Pysdens Solicitors, the model published in the book entitled "GUIDELINES TO CONSIDERATION IN RESPECT OF COMMERCIAL DEALINGS" by S. Perez-Goldzveig and K.Pysden forming part of the research and development programme "COMMERCIAL GUIDE INITIATIVE" by S. Perez-Goldzveig and K.Pysden being part of "TheHouseofBranchofGold" was used with the authorisation of the authors.

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Contact: sam.perez@pysdens.com

Pysdens Solicitors
108 Fenchurch Street
Third Floor
ECRM 5JR
City of London – 30/11/11.

⁶ New legislation creates the need to seek expensive legal advice and expensive litigation or settlement on poor terms to avoid this due to lack of existing case law in common law countries. Such is the likely danger of the “Rotterdam Rules”.

⁷ Read foot note 3 please.