

# ICC Recommendations on Authorised Economic Operator programmes

## Introduction

As the institutional representative of over 45 million businesses, from all sectors and of all sizes, reaching more than 170 countries, the International Chamber of Commerce (ICC) supports the full and consistent implementation of Authorised Economic Operator (AEO) and similar programmes.

In June 2005, the World Customs Organization (WCO) Council adopted the SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework), which has been regularly updated to reflect emerging developments. Each of the SAFE Framework's three pillars – Customs-to-Customs network arrangements (Pillar 1), Customs-to-Business partnerships (Pillar 2), and Customs-to-other Government Agencies cooperation (Pillar 3) – sets out a specific set of standards. Pillar 2 provides the framework under which businesses can obtain authorised status as a security partner. This implies the fulfillment of security requirements and is intended to lead to a minimum set of tangible trade facilitation benefits for AEO-certified operators.

Well-designed and implemented AEO programmes are a key trade facilitation mechanism, reducing the time and cost of trade for legitimate operators while also reducing the burden on Customs of unnecessary inspections. It is important to underline that the trade facilitation benefits granted to AEOs should not in any way curtail or diminish those available to non-AEO traders: AEO programmes are expected to provide additional benefits through enhanced public private partnership. This approach frees up resources for Customs administrations to focus on higher-risk actors and their shipments.

In practice, however, the benefits for participating companies are often limited with burdensome and costly application and renewal processes and no tangible trade facilitation benefits. Also, a lack of harmonisation and varying requirements among over 80 AEO programmes in place worldwide – create additional burdens on operators, particularly micro-, small-, and medium-sized enterprises (MSMEs).

To ensure that AEO programmes deliver tangible benefits and process improvements for companies of all sizes and sectors, this paper sets out seven key recommendations for the successful implementation of AEO programmes.

## SAFE AEO programmes and the World Trade Organization's Trade Facilitation Agreement (TFA)

The WTO TFA entered into force in 2017 and contains provisions for expediting the movement, release and clearance of goods, including in transit. It also sets out measures for effective cooperation between Customs and other appropriate authorities on trade facilitation and Customs compliance issues. Article 7.7 (Trade Facilitation Measures for Authorized Operators) of the TFA sets out specific measures aimed at facilitating trade for Authorized Operators (AOs). These AOs are traders who meet particular criteria, qualifying them for additional trade facilitation measures. These measures should simplify import, export, or transit formalities and procedures for qualifying AOs.

Compared to TFA Article 7.7, the SAFE AEO programme is more comprehensive, going beyond trade compliance to also include a range of mandatory supply chain security standards. TFA Article 7.7 and the SAFE AEO programmes are different in their nature, objectives/focus and scope. Yet, there is a degree of overlap between their trade facilitation objectives and actions as well as qualifying criteria. In practical terms, a Customs administration that is effectively implementing the SAFE AEO programme can be confident that it is fulfilling the obligations of TFA Article 7.7.

Source: *WCO (June 2018): FAQ on linkages between the SAFE AEO Programme and Article 7.7 of the WTO TFA*

## KEY RECOMMENDATIONS:

- 1. Drive the implementation of the WCO SAFE Framework.** The SAFE Framework is a comprehensive instrument that should guide Customs authorities when establishing and further developing their AEO programmes. Many of the issues that businesses encounter with AEO programmes would be resolved if Customs pursued an effective implementation of the SAFE Framework. This would also contribute to the harmonisation of AEO programmes, facilitating the use of Mutual Recognition Arrangements/Agreements (MRAs) and allowing more operators, particularly MSMEs, to participate in multiple AEO programmes. To support effective implementation:
  - The WCO's SAFE Package incorporates instruments, guidance and tools, such as the AEO Compendium, that Customs administrations can use when setting up or improving their AEO programmes. The SAFE Package also includes materials on MRAs, such as the MRA Strategy Guide.
  - Customs administrations can benefit from the exchange of experiences within the WCO SAFE Working Group. They can also benefit from the WCO's capacity-building efforts to build and/or implement an AEO programme effectively and comprehensively. For example, capacity-building could include specialised training of Customs authorities and officers or their delegated agents and contact persons within the Customs authority.
- 2. Leverage digitalisation to make AEO processes more efficient and transparent.** The digitalisation of AEO processes and the use of new technologies can have a significant

positive impact on the administration of AEO programmes and should be leveraged to simplify processes for traders.

- The AEO certification process should be simplified through digitalisation, for example through digital self-assessments.
- When implemented correctly, automation and digitalisation can significantly improve AEO processes, but they must always ensure the security of confidential business information. Companies seeking AEO-certification must disclose sensitive business data, underscoring the need to put in place appropriate guardrails to protect confidential business information.

3. **Strengthen public-private partnership.** Under Pillar 2 of the SAFE Framework, Customs should be engaging with business at all stages of the development and implementation of AEO programmes. Cooperation and coordination with all relevant stakeholders is a prerequisite for the success of AEO programmes that benefit both governments and business alike.

- Chambers of commerce should be leveraged for their knowledge and extensive networks across business sectors and their outreach to MSMEs. This facilitating role can support governments in establishing, accrediting, and validating AEOs, thereby enhancing the efficiency and effectiveness of these processes.
- The evaluation and impact measurement of AEO programmes is critical to ensure their effectiveness and long-term success. Joint government-business assessment and evaluation of AEO programmes are recommended to ensure that such programmes continue to remain relevant in an evolving business environment. Such efforts also contribute to strengthening the Customs-business relationship and to building trust.

4. **Ensure a minimum set of benefits is met for AEOs.** At a minimum, these should include:

- *Immediate release procedures:* Shipments involving consignor and consignee with AEO status as well as shipments carried and controlled by a transport and logistics service provider with AEO status – for which declaration data has been submitted prior to the arrival and determined to be low-risk – should be released immediately upon arrival by Customs and other government agencies.
- *Self-assessment:* AEOs should be controlled on an account basis rather than on a transactional basis and should be provided the option to self-assess duties and taxes for shipments over a given period, including the possibility of deferred payment of duties and taxes.
- *Relief from guarantee/bond requirements:* AEOs that have demonstrated financial viability and a high compliance level should be relieved from costly guarantees and/or bond requirements for conducting suspension regimes.

- *Enforcement priorities:* Governments should adopt a policy of assisted compliance in AEO programmes. Identified gaps in compliance processes should be addressed through enhanced Customs-business collaboration, which would strengthen security and create greater awareness and participation, rather than resorting to the immediate imposition of penalties. For AEOs who must be penalised, their overall compliance efforts, including their existing internal compliance policies and daily internal control processes, should be taken into account. Customs administrations should also consider whether violations were accidental or deliberate. Implementing overly stringent enforcement measures against AEOs who have acknowledged errors could be counterproductive in the long-run as such actions may deter companies from maintaining their AEO certification.
5. **Improve the inter-agency recognition of the AEO status.** As envisioned in Pillar 3 of the SAFE Framework, Customs authorities should actively seek to cooperate with Other Government Agencies (OGAs) to drive the recognition of the AEO status and align the various agencies' security programmes and control measures as much as possible. This would provide additional benefits to AEOs by facilitating trade and transport with simplifications beyond those within the control of Customs agencies. To further make the AEO status more beneficial and attractive for companies, the AEO status should complement existing schemes and programmes related to customs, aviation, land and maritime security. As such, there should be one AEO certificate covering all existing schemes.
6. **Unlock the potential of MRAs.** The establishment of MRAs and regional AEO programmes can contribute to growing cross-border trade if implemented effectively. While many countries have MRAs in place on a political or higher level, companies often find that processes and operations on a practical level do not reflect the mutual recognition of their AEO status. As a result, crossing borders can involve burdensome processes for companies.
- Cross-border partnerships between authorities should enable the recognition of AEO validations and authorisations, thereby minimising duplication of efforts while also streamlining processes for companies.
  - AEO programmes in a customs union should be governed by a single application and validation procedure to attain true mutual recognition. Moreover, within a Customs union, a mutual recognition strategy should enable a company with multiple legal entities in various member states of the customs union to file multiple legal entities in one application in any one of the member states.
  - It should be the responsibility of the customs authority where the application is filed to coordinate and obtain the concurrence of its mutual recognition partner countries. To encourage greater participation by companies of all sizes, mutual recognition should result in a system similar to the use of a passport for individuals.

One application should be recognised in multiple countries – at minimum on a regional level.

- Monitoring the impact of MRAs is critical to ensure that they lead to tangible benefits and process improvements. The impact of MRAs should be measured regularly to ensure their effectiveness.

7. **Foster the inclusivity of AEO programmes.** Increasing the participation of companies in AEO programmes will increase security across supply chains.

- AEO programmes should be open to all operators<sup>1</sup> in the international supply chain and not only to importers. The certification of a maximum number of supply chain participants/stakeholders (e.g., customs brokers, domestic and international transport companies, ports, airports, bonded warehouses) is an important way to further secure supply chains globally.
- As a result of the burdensome and costly process for companies to obtain AEO status, only a small number of MSMEs worldwide have to date been accredited with AEO-status. Specific efforts should be undertaken to increase the participation of MSMEs in AEO programmes to further enhance security across supply chains. For example, this could be done by offering user-friendly self-assessment tools, a dedicated helpdesk or by recognising that MSMEs that are part of larger AEO certified companies' supply chains have already undergone significant selection and vetting processes and are being managed by their vendors/partners. This recognition/special status for MSMEs could be leveraged in the course of risk analysis being performed by Customs administrations and foster more participation by MSMEs.
- AEO programmes should accommodate the evolving structures of companies, including mergers, expansions, or divisions. A streamlined renewal process that focuses solely on recent changes, rather than requiring complete recertification, will facilitate the continued participation of companies in AEO programmes.

## Conclusion

AEO programmes enhance security while facilitating trade and building trust between Customs and business. ICC encourages countries to follow and align their AEO programmes to the global standard that was set by the WCO in Pillar II of the WCO SAFE Framework. To further strengthen supply chain security and maximise trade facilitation, ICC also calls upon governments to avoid divergence from this global standard to enhance uniformity and predictability. ICC stands ready to cooperate and provide assistance to the WCO and its members to contribute to the improvement of AEO programmes worldwide.

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<sup>1</sup> This includes importers, exporters, freight forwarders, shippers and alike.