

## **AUTHORIZED ECONOMIC OPERATOR PROGRAM OF TURKEY**

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### **ABSTRACT**

The aim of this research is to examine Authorized Economic Operator program of Turkey that provides some facilities and privileges in custom procedures to the referenced, reliable and self-checking organizations which have standards such as financial competence, safety and security, conforming to the customs-related obligations, having a traceable registration system on demand in accordance with the rules. In accordance with this purpose, first of all data collection has been performed with literature review and the previous researches on the subject and the points which are considered to be missing or need to be developed have been determined

In this context, digital databases such as National Library, Universities, YÖK, Google scholar etc. were examined through the internet using footnote-chasing technique and the keywords that constitute the content of the research. According to this technique, in addition to the books, theses, and academic publications related to the subject reached via databases, the references of these publications were subjected to detailed examination.

As a result, this program has allowed the commercial enterprises to be more preferred in international competition environment and to increase the competitiveness and exports of their countries. Apart from this, mutual recognition agreements also provided convenience for the enterprises that the countries have traded with during the customs procedures.

**Keywords:** Customs Concept, Authorized Economic Operator, Supply Chain Security, AEO, Mutual Recognition and Facilitation of Trade

### **INTRODUCTION**

In recent years, modernization was made especially at the customs gates and infrastructure conditions needed by customs were improved in order to increase the amount of exports made by the Republic of Turkey.

Trade facilitation projects began to be implemented according to "The Easiest, Most Secure Trade" mission of Turkey Ministry of Customs and Trade. In this context, "Facilitation of Customs Procedures Regulation" which will accelerate the foreign trade of Turkey, reorganized on May 21, 2014 published in the Official Gazette.

In accordance with this regulation starting from the date of January 2013 Turkey also actualized "authorized consignor", "on-site customs clearance in export," "authorized consignee" and " on-site customs clearance in import" implementations within the scope of Authorized Economic Operator Status. Thanks to this regulation, a modern era has been opened in the commercial life and it has been given opportunity to export, import and carrier companies to perform customs-related activities in their own facilities. In this way, progress has been made in the savings of time and cost in businesses, reducing the workload in customs. Businesses with authorized economic operator certificate have the right to benefit from lesser control, priority when there is a compulsory situation, priority border crossing and the green line where the customs control of goods is not made. With this program, which was

put forward in terms of the export targets set for 2023, commercial enterprises were more preferred in international competition conditions, the competitiveness of businesses was increased and export was supported. Apart from this, mutual recognition agreements have enabled countries to bring convenience to the businesses of the countries they trade. Within this framework, the mutual recognition agreement initiated with South Korea was continued with USA and Russia agreements and the businesses were enabled to be active in the world trade. This article is aimed to examine AEO status in terms of Turkey and to give suggestions to support its development.

### **Authorized Economic Operator Status**

The Authorized Economic Operator is the granting of rights and privileges by the customs administration to organizations that fulfill their obligations related to the customs, keep records on a regular basis and record them, comply with the norms of financial adequacy and security, and have the ability to conduct self-audit (AEO, [03.08.2018]).

According to the WCO's SAFE-Framework of Standards document, the "AEO" is defined as; "a party involved in the international movement of goods in whatever function that has been approved by or on behalf of a national Customs Administration as complying with WCO or equivalent supply chain security standards. AEO include inter alia manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors". (Ireland, 2009, 7)

Within the scope of the program, while the countries form their own models, the program, which is in force under the name of "Authorized Economic Operator (AEO)" in the member states of the European Union, aims at making customs operations safer, less costly and faster, and is organized under the name of, "Authorized Economic Operator" in our country as well. (Sofyalioğlu, Kartal, 2013).

Applicants shall be required to be authorized economic operator established in free zones customs territory of Turkey in the status of natural and legal persons and public institutions, and are required to operate at least 3 years.

### **International Regulations Regarding the Authorized Economic Operator Status**

The program implemented in Turkey with the name of Authorized Economic Operator constitutes the basic structure of the work done in the direction of making international trade safely and quickly. It is an implementation where the goods subject to international trade are protected from foreign intervention and the companies that meet the required criteria are approved and accepted.

Until today, 163 out of 177 WCO Member States expressed their intention to implement the WCO Framework of Standards which aims to make global trade safe and easy (Weerth, 2011,377)

The system is based on public-private sector cooperation in which the authorities in the hands of the public administration are handed over if the companies comply with the specified conditions, thereby eliminating the waiting times in the customs and the bureaucracy, aiming at fast secure trade.

Although the objectives of the authorized economic operator implementation are the same, the program names in countries vary,

- ABD (C-TPAT; Customs Trade Partnership Against Terrorism)
- AB Member States (AEO; Authorized Economic Operator)
- APEC Members (Asia Pacific Economic Cooperation) (AEO)
- New Zealand (SES; Secure Exports Scheme)
- Singapore (STP; Secure Trade Partnership)

Promotion of safe trade takes place at the root of all of these programs but each one has a different approach. For example, while the US exporters are not included in the program, the EU's AEO program is open to all operators within the supply chain. The biggest difference of the EU's AEO program from others is that it is more comprehensive because it includes safety as well as simplified procedures and is therefore related to compliance with all customs legislation, including customs duties. (RISK.GTB [10.09.2018])

### **Countries with Authorized Economic Operator Program**

Total of 53 countries have authorized economic operator program particularly Member Countries of the European Union and the United States, including Argentina, Algeria, China and Hong Kong, Dominican Republic, Guatemala, India, Israel, Switzerland, Canada, Kenya, Colombia, Korea, Costa Rica, Malaysia, Mexico, Norway, Peru, Singapore, Uganda, Jordan, Thailand, New Zealand and Zambia. In the European Union, there are 13,885 authorized economic operators, more than half of which are in Germany and the rest are in the member countries, mainly in the Netherlands and France. On the other hand, there are about 10.693 AEOs in the USA, 533 in South Korea and 518 in Japan. (RISK.GTB [10.09.2018])

### **International Importance of Authorized Economic Operator**

After the September 11 attacks, the question of how to ensure the balance between the facilitation of trade and in the border crossings between countries and providing security of global trade has come to the fore. For the solution of this problem, the Authorized Economic Operator concept has emerged.

The main purpose of this is to establish secure supply chains. It is to ensure that every ring of tradeable material is kept under control and safely transport from the first exit point to the final destination. With this implementation, international trade is intended to be safe, fast and easy.

### **Mutual Recognition Agreements**

Mutual recognition is simply the recognition of the certification process of the Authorized Economic Operator program implemented in another WCO Member State by the Customs Administration of a Member State of WCO and that it is seen as equal to its own certification process. (Aigner, 2010).

It is not enough for a country to establish safe trade alone in international trade. Safety Chain rings must be recognized in relation to each other. In this way, the trade will be safe and fast, and it will also play an important role in the fight against organized crime and especially terrorism.

For this reason, by making mutual recognition agreements, countries recognize the AEO certificated companies of each other's. A Mutual Recognition Agreement (MRA) between

Turkey and South Korea signed on 9.06.2014 and 3 pilot companies from the two countries selected to be implemented of the agreement.

The most important MRA for Turkey is expected to sign with the EU because the EU is Turkey's most important foreign markets. The EU, which has a very comprehensive and complex structure in terms of the acquis, will have the experience and advantage of the agreements it has signed previously. Turkey which has an important place among the developing countries in recent years has a significant market advantage with the impact of its population. Turkey, which is in the focus of defense industry, civil aviation and other large-scale projects, may use this advantage. Another advantage in negotiations being made with the EU is Turkey is a member of Customs Union and using the same customs law with EU. It seems that the data model compiled by the WCO has not yet met the needs of the authorized economic operator. (Tweddle,2008-104-105)

### **Importance of Mutual Recognition and Process**

The fact that the AEO programs implemented under the name AEO or C-TPAT are more effective depends on the existence of mutual recognition agreements between countries. Although this program is implemented under the different names and rules in every country, SAFE also provides the necessary infrastructure for the development of mechanisms that will ensure mutual recognition of the validity of the AEO programs to countries that have agreed to implement the agreement.

In general, we see that the mutual recognition of the AEO programs is an agreement signed by one or more states. Within the scope of these agreements, states must recognize that audits and controls made by each other's customs administrations and authorization certificates given as a result of these are equal and that the privileges and facilities provided by the customs administrations to the authorized parties are based on reciprocity.

Reciprocity that constitutes basis of mutual recognition agreements is the audits and controls applied by the customs administrations of the signatory states during the certification process and the convenience to be applied to the certificated companies, so it is clear that Turkey should carry out a careful and attentive process in terms of both controls to be made and standardization of these controls and simplified procedures applied. According to the 2017 data of the Turkey Statistical Institute, the EU is seen as Turkey's most important export market with about 74 billion dollars (47.1%) export volume. When it is evaluated in this context, it is clear that to sign agreement between Turkey and EU which will allow mutual recognition of the AEO and YYS (AEO program of Turkey) programs is important.

### **Authorization and Control Processes**

One of the important elements of mutual recognition agreements is undoubtedly the fact that recognition is based on trust between the parties and mutual acceptance of the AEO programs and the security measures implemented by the companies in this process. In general terms, the two countries start the process of mutual recognition agreement only when they trust on the control mechanisms they have implemented. Considering that this concept of trust can be affected by many elements, it is of utmost importance to ensure the perception of trust in the community of countries or countries that make up a country's market. In the signing of mutual recognition agreements, it cannot be expected not to have any effect of cultural ties between countries, common interests and political elements. Mutual interests will be prioritized in these agreements as well as in all other agreements within the scope of state law. However, it is inevitable for states to carry out a more careful process in the face of technical reasons and

possible attacks. Having been signed a mutual recognition agreement in June 2008 between US and Jordan (in the 58<sup>th</sup> place with 48 points) which has the same corruption perception score with Turkey can be considered as a measure.

It will be very difficult for bilateral recognition agreements to become multilateral and eventually to turn into a global recognition level. Because mutual recognition will be possible by countries having the same confidence in each other's programs, controls, audits and certification process standards. The answer to the question of whether a global recognition will be possible if the bilateral recognition agreements are accepted as a chain of trust is not yet available at our current stage. However, it is certain that a global mutual recognition will be very difficult.

The finalization of the mutual recognition agreement signed between the USA and the EU, which are two of the most important actors of the world economy, on 04.05.2012 (although the C-TPAT program of the USA was only for import) lasted for about four and a half years. It is not easy to establish mutual trust between these two parties, which are considered to be governed by relatively high standards of corruption perception and to have developed economies. The reason why mutual recognition agreements are so challenging given the challenges of the EU as a multi-state entity is that, when the State party signed the agreement, the counter-state's confidence in all control and control processes is announced to its people. Because the trust that is believed to have been created by all its functions, and the destruction of it by a terrorist attack by using the supply chain, will lead to results that the country's executives and those who carry out the technical processes in signing the agreement cannot explain to their citizens. On this basis, of mutual recognition agreements that to be expected signed by Turkey will bring challenges in different sizes according to the countries' approach is not considered a false detection.

### **Procedures of Mutual Recognition Agreement**

When the customs administrations want to be a party to mutual recognition agreements, they will want to compare the legislative process related to the certification process and requirements verification, and more importantly, the implementation of this legislation in practice, rather than following a path based on purely trust. (Aigner, 2010).

In the program implemented by Turkey, for example the existence of information systems security is based on the documentation that meets the ISO 27001 standard. This condition has been defined as, the original ISO 9001 and ISO 27001 certificates, which have been issued by conformity assessment bodies that are accredited by accreditation bodies and signed the mutual recognition agreements of European Accreditation Association, and bearing the brand of the accreditation body..., in the clause "e" of Article 10 of the Regulation on Facilitation of Customs Transactions under the heading of "the documents to be searched" dated 10.01.2013. This definition in the Customs General Communiqué published on 29.03.2013 explained as; "... ISO 27001 certificate should include customs and foreign trade transactions such as import, export, transit, customs clearance and information security such as logistics, warehousing, accounting, finance and information processing related to these transactions and electronic information assets used for protecting these assets. " According to the demands and expectations of the countries, the criteria that the countries want in practice vary. In order to realize the mutual recognition agreement, the mutual expectations of the countries should be met. Mutual visits by the parties intending to make mutual recognition agreements are necessary in order to measure the uniformity of the practices in practice. It can be discovered whether the exchange of ideas with inspections and on-site inspections to be carried out on

site and the implementation of existing legal regulations on paper, integrate with the internal audit functions, lead to the recognition of certain exceptions and the formation of specific practices, and thus, whether it has an impact on the status of AEO.

It is a known fact that different customs administrations interpret the different legal regulations differently and cause differences in practice. This fact is not only a situation unique to Turkey. In order to avoid the impact of such implementation differences between the parties on the progress of the process during mutual recognition agreements, the administrations should find effective solutions to ensure the unity of implementation. These visits, which took place prior to the agreement, should result in the use of these experiences as much as possible in practice, taking advantage of each other's experiences rather than aiming at the making difficulties of each other and also technical staff should be informed.

The following conditions are required for a state to sign a MRA with the US; (U.S. Customs and Border Protection); the existence of a full and established customs administration in the State Party, the existence of strong and effective evaluation processes within the AEO program, the existence of a strong and effective security implementation within the program, and, above all, the signing State Party "Customs Mutual Assistance Agreement" with the USA.

C-TPAT also supports other trade partnerships and the internationalization of foreign customs and security-based industry partnership programs. As of 2015, the CBP signed a Mutual Recognition Agreement with 11 countries in order to expand the program globally. (Szelp,2010,41-42).

The stages of the signing of the MRA with the USA are divided into four main groups. The first stage is the evaluation / review phase. At this stage, the security criteria of the State Party are expected to be well-defined/ implemented.

Another issue to be sought during the review is existence and effectively implementation of the processes that AEO certified companies undertake to fulfill their responsibilities in order to maintain the validity of the certificate that to be controlled regularly by customs administration. In the case of determination of the existence of these processes, the relevant officials of both parties will examine the program of the other in depth and identify possible shortcomings.

Again at this stage, officials will try to understand the processes, policies and how the program is implemented in practice through mutual visits. On the other hand, it will be determined by the legal experts of the countries concerned whether there is a legal basis for the signing of MRA. The similarities and differences of the program implemented by the two countries will be determined and the results will be prepared as a report and a common document will be prepared including the deficiencies identified and the solutions for the differences. After all these procedures are completed, a decision will be made on whether or not the next stage can be passed, and if the results are positive, the second stage will be passed.

The second stage is the implementation planning and testing phase. At this stage, details of how mutual recognition will work between the two customs administrations are determined. A pilot program is developed when issues related to implementation and processes are resolved. Companies that wish to participate in the pilot program are identified,

communication, feedback and methodologies related to the operation of customs-private sector are determined. A protocol is developed on how to make notifications about security breaches and a document defining pilot implementation with all its elements is prepared and the third stage, the pilot phase, is passed.

The third stage is the pilot implementation phase. Once the preparations for the pilot implementation are completed, it is decided how wide the implementation will be. If both countries agree that each other's program is complete, a pilot program may not be required. After the pilot implementation has been activated, both customs authorities prepare an evaluation report and then prepare a document including the opinions and solution proposals of both the customs administrations and the private sector and the results obtained from the implementation.

The final step is to declare of MRA. The customs authorities of both parties make decisions that the other party will recognize the program. A statement is prepared on what the mutual recognition means and how it will work.

In this statement, it is determined the methods of verifying each other's systems, each other's programs review periods and methods indicate the protocols to be followed during or after the event when a possible unwanted situation occurs, or if the MRA is suspended. (U.S. Agency for International Development, 2010).

#### **Advantages of Mutual Recognition Agreements**

The main objective of mutual recognition agreements is to ensure global supply chain security and thus to simplify trade. The customs administration of any country will benefit from the contributions of the customs administration of the other country to which it has signed a recognition agreement and the private sector involved in the program, and will be able to have more information about the high-risk goods. The custom administration also will be able to focus the resources to be used in the controls to the right points by analyzing this information coming from electronic communication channels in their own risk management systems.

In the present situation in Turkey, administration only makes a risk assessment of data obtained its own and carries out the controls on the results of this assessment. Although the physical control rate Turkey realized in import (red line) fell to 18.7% in 2012 from 31% in 2008, is still significantly high. (Uslu, 2014).

In the current system, the controls of the goods are carried out by the customs personnel, and customs personnel are held responsible together with the firms for any problem to be arisen in the future. Due to the inadequacy of the existing number of Customs personnel and the inadequacy of the infrastructure, the desired level of controls cannot be provided. If the data to be obtained before the mutual recognition agreement is passed through an effective risk management system, the use of the resources required for the physical examination of the items considered to be sensitive and risky can be planned more effectively. In this way, as in the UK example, the personnel resource can be shifted to the controls and a more effective customs system can be created.

Companies that have already acquired AEO status or are currently in the process of evaluating the implementation are in a position to have less control or have priority in controls as a result of their efforts to comply with high security standards. The majority of companies in the EU who have received AEO certification state that the only reason for applying for a certificate is

that the status of big companies they are trading with is also expected to be accepted in their own country as a result of mutual recognition. (Aigner, 2010).

Another result of the mutual recognition of the controls performed by each administration between the customs administrations would be that the export declaration given in the exit country could be used as an import declaration in the country of destination. This will be effective in the importation process of the country of destination except for exceptional cases such as the presence of intelligence or violation of intellectual property rights and will make a significant contribution in terms of facilitating trade. Although the number of signed mutual recognition agreements has reached a significant level, it is observed that there are difficulties in the current agreement negotiations and the existing controls in the countries and the recognition of the results of these controls.

As a result of mutual recognition agreements, it is observed that the facilities provided by the parties to the AEO certified company that has been accredited to the program of the other country are limited with the inspection frequency and inspection priority. Negotiations between the EU and the customs authorities of the third party countries revealed a consensus that it would be very difficult to apply the simplified procedures other than the above-mentioned facilities to an accredited company in the other country. Nevertheless, fewer inspection and inspection priority advantages will enable companies to anticipate more accurate timing of trade, as well as since they had the accreditation process they will be more preferred compared to non-accredited ones. Only this advantage is sufficiently convincing for many companies to want having AEO status.

## **CONCLUSION**

21<sup>st</sup> century, the age of information and technology, is important in terms of transferring the information used in customs transactions to the virtual environment, allowing risk analysis to be carried out before arriving of the goods and vehicles subject to foreign trade to the Customs office, efficient use of existing personnel, making faster and more reliable transactions. The fact that combining the information and documents received from other institutions during the customs procedures in a virtual environment in a single window system also positively contributes to the customs procedures in terms of time and security. Expectations, priorities and development level of countries based on their current geographic location are influencing the rules of AEO Implementation which are being implemented for safe and fast trade. In EU and developed countries, transactions are carried out by means of document control and post-check procedures on the basis of declaration. Effectiveness of the system is based on private sector and state cooperation. Having an authorized economic operator certificate means to become an enterprise that meeting all the requirements to comply with the law, having a strong and reliable financial structure, managing by individuals whose legal history is clean, almost united with the state, having strong and reliable information system and prepared for all risks that may arise by taking into account the rights of employees and having effective internal controls. When it is considered that average 20% of Turkey's total tax revenue consists of customs duties, the significance of the accuracy of data entry is revealed.

Turkey, using the opportunity of the change that make feel its effect increasingly with AEO system, should demonstrate an approach that protects ethics and prevents informality and protects employee rights tax and fiscal policies, and thus take its place in the restructured world trade. In order for the implementation to be successful, it is thought that the private sector, which is one of the stakeholders, is adequately informed about the implementation and



making it qualified in terms of legislation and implementation will contribute to the successful execution of the system. With the understanding by the companies that the AEO status will provide benefits such as competitive advantage, international prestige and recognition, cost and time savings, and gaining an institutional identity in the organizational sense, more companies will be willing to receive AEO certificate. Today, companies that have AEO certificate have become the preferred and demanded companies in international trade.

The fulfillment of certain rules based on state and private sector partnership and the fulfillment of the required criteria by certified companies are based on a certain economic investment. In this system, which is based on specific costs for the private sector, companies will be encouraged by financial incentives such as tax reduction and supply chain security will be ensured. Thus, supervision of more risky firms will be provided by using limited personnel more effectively

Considering the mutual recognition procedure, it would be beneficial to define the more basic and understandable rules along with the rules of the countries that are mostly traded in foreign trade. In addition, it is seen that one of the prominent elements of AEO programs that are being implemented in different countries is the self-evaluation of the companies and subjecting them to self-audit. The internal audit, which provides companies with multi-dimensional values such as activity efficiency, productivity and sustainable growth, should be implemented by companies in our country.

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