Abstract. This paper aims to highlight the role of the authorized economic operators in providing the state foreign trade safety. The author analyses the legal framework of this institute at international and national levels. Much attention is paid to the requirements for entities wishing to obtain the authorized economic operators status, particularly of the security criteria. The study reviews the advantages and problems in implementation of the authorized economic operators status in Ukraine. To highlight the significance of Customs-Business partnership the author argues that reliable economic operators share responsibility for foreign trade security with customs, receiving significant benefits for its business.

Keywords: authorized economic operator, foreign trade, customs, Ukraine, business, trade.

Introduction. In recent decades the international trading environment has been transformed significantly in terms of the manner in which goods are carried and traded, the speed of such transactions and the sheer volume of goods that are now being traded around the globe. This, together with rising pressure from the international trading community to minimize government intervention, has caused customs authorities to place an increasing emphasis on the facilitation of trade. Besides, the continuing growth of global trade and increasing security threats to the international supply chain forces customs administrations to regularly assess efforts in providing effective border protection whilst supporting legitimate trade.

Continuing development of main modern principles of customs affairs outlined in the revised Kyoto Convention (1999) and the SAFE Framework of Standards (2007), the Customs in the 21st Century strategic vision, the World Customs Organization (WCO) has dedicated 2010 to the Customs-Business Partnership (CBP) with slogan ‘Customs and Business: improving performances through partnership’ and has built up the CBP as the cornerstone of its actions in a spirit of consultation, dialogue and openness. Dr Kunio Mikuriya (2010), Secretary General of the WCO, stated that recent period of change should prompt all stakeholders to work more closely together, redouble their efforts to practice international co-operation, establish a new dynamic and take bold initiatives aimed at simplification, speed, flexibility, predictability, effectiveness and fairness of procedures. As noted by S. Aigner (2010, p. 44), the concept of CBP continues the development of concept of New Public Management in customs field. An integral part of CBP becomes the institute of the Authorised Economic Operator (AEO) which allows to get mutual benefits both customs and traders to achieve own such different objectives.

The issue of implementation of customs international standards in national legislation and specific mechanisms for its implementation were studied in the works of domestic and foreign customs theorists and practitioners: I. Berezhnyuk, O. Egorov, T. Jedynak, L. Ivashova, I. Kveliashvili, Т. Lipihina, V. Naumenko, P. Pashko, S. Tereshchenko, A. Voytseschuk, D. Widdowson and other researchers.

The papers of I. Berezhnyuk, H. Hablo, A. Mazur, O. Moshynska, D. Nekrasov, L. Prus, S. Shevchenko, V. Sergijchyk, S. Simonova, S. Tereshchenko and others were devoted to problems of organization and improvement activities of the AEO in Ukraine and Russian Federation, institutional and legal aspects of the mechanism of simplification of customs procedures for AEO, analysis of foreign experience in this field. Despite the importance of these studies, they emphasized only on the importance of implementation this new customs institution, leaving without consideration its influence on providing the state foreign trade safety. Therefore, all this resulted in the choice of theme of this paper.
Method

The methods used to research the institute of the authorized economic operators represented the structural-functional analysis and system approach. Structural-functional analysis allowed to recognize the peculiarities of obtaining this status, its benefits and possibilities. Using a system approach gave the understanding the role and influence of the authorized economic operators in providing the state foreign trade safety and global supply chain security.

Results

In 2008 the WCO defined the conventional mission for all national Customs administrations in world: «to develop and implement an integrated set of policies and procedures that ensure increased safety and security, as well as effective trade facilitation and revenue collection» (WCO, 2008, p. 5).

This statement was the result of developed by the global customs community the SAFE Framework of Standards to Secure and Facilitate Global Trade (WCO, 2007) which provides a model for administrations and governments wishing to develop security measures to facilitate and secure global supply chains. The SAFE Framework bases on four core elements:
1. the harmonization of advance electronic cargo information on inbound, outbound and transit shipments;
2. the requirement that each country that joins SAFE commits to employing a consistent risk management approach to address security threats;
3. the requirement that on request of the customs administration in the receiving nation, the customs administration of the sending nation performs an outbound inspection of high-risk containers and cargo using non-intrusive detection equipment;
4. the benefits that Customs authorities will provide to businesses that meet minimal supply chain security standards and best practices, including enhanced trade facilitation for legitimate trade and AEO concept.

The SAFE Framework, based on this core principles, rests on two pillars, each of which involves a set of standards that are consolidated to guarantee ease of understanding and rapid international implementation (see Figure 1).

![Fig. 1. Structure of the SAFE Framework](image)

The AEO concept is a key element of the pillar 2 of the SAFE Framework that allows for flexibility and the customization of security plans based on an AEO’s business model. According to the SAFE Framework an AEO is 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 (WCO, 2007, p. 36). The scope of AEO includes all stakeholders in the international supply chain: manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors. The SAFE Framework defines thirteen detailed requirements of security standards for AEO:

A. Demonstrated compliance with Customs requirements: taking into account the compliance history of a prospective AEO when considering the request for AEO status.

B. Satisfactory system for Management of commercial records: recognition the importance of
maintaining accurate commercial records by an AEO and their ready availability to Customs.

C. Financial viability: recognition the critical role to be filled by good financial standing in allowing an AEO to fulfill its commitments under the SAFE Framework.

D. Consultation, Co-operation and Communication: established measures for both Customs and the AEO aimed at fostering mutually beneficial working relationships.

E. Education, Training and Awareness: recognition the importance of reinforcing in employees (both Customs and the AEO) the necessity of learning proper procedures and dealing with anomalous situations.

F. Information Exchange, Access and Confidentiality: provision to secure information and to prevent its misuse or unauthorized alteration.

G. Cargo Security: ensuring that cargo integrity and access controls are maintained at the highest levels.

H. Conveyance Security: encouragement of Customs and the AEO to work together to secure and maintain transport conveyances.

I. Premises security: requirements to implement programmes to secure buildings and to control and monitor exterior and interior perimeters.

J. Personnel security: elements for both Customs and the AEO regarding recruitment, security checks and personnel procedures.

K. Trading Partner Security: encouragement the AEO to conclude contractual provisions with partners in the Supply chain to bolster their level of security commitment.

L. Crisis Management and Incident recovery: Encourages advance contingency planning for recovery from adverse incidents.

M. Measurement, Analysis and Improvement: seeking to foster consistency, security integrity and the identification of security system requirements.

In opinion of S. Aigner (2010, p. 48), an AEO is a more advanced stage of a CBP arrangement. Tangible benefits for AEO are a measure of a balance between trade security and trade facilitation. AEOs can get benefits, such as faster processing of goods by Customs, e.g. through reduced examination rates, that saves in time and costs, and also reduces multiple and complex reporting requirements. These processes will ensure that AEOs see a benefit to their investment in good security systems and practices, including reduced risk-targeting assessments and inspections, and expedited processing of their goods.

One of the major benefits for businesses applying for AEO status is mutual recognition. Every country that has launched an AEO programme aspires to conclude mutual recognition agreements (MRAs) with its major trading partners. The SAFE Framework defines mutual recognition as an action or decision taken or an authorization that has been properly granted by one Customs administration is recognized and accepted by another Customs administration. Mutual recognition can be a means to avoid duplication of security controls and can greatly contribute to the facilitation and control of goods moving in the international supply chain. The standardized approach to AEO authorization provides a solid platform for development of international systems of mutual recognition of AEO status at bilateral, sub-regional, regional and, in the future, global levels. Further, it calls upon Customs administrations to develop mechanisms for mutual recognition of AEO validations and authorizations, and Customs control results and other mechanisms that may eliminate or reduce redundant or duplicated control efforts.

The WCO develops more detailed implementing provisions for the AEO concept:
- the AEO Implementation Guidance (WCO, 2010) – provides baseline technical guidance for the implementation of AEO programmes at the global level between WCO Members and the international trade community and allows for the inclusion of supplemental national criteria that may be required by any given Customs administration;
- the Compendium of AEO Programmes (WCO, 2012) – summarizes information provided and verified by WCO Members on existing AEO programmes, AEO programmes in the process of being launched, and Customs compliance programmes; lists the concluded AEO MRAs and those that are under negotiation, and also includes a summary of the AEO programme accreditation procedures and benefits.

Although the legal framework has been brought into compliance with international norms, in Ukraine there are no AEO programmes in place, as there are only initial developments on the legislative basis providing for the acknowledgement of the AEO status.

The Chapter 2 of new Customs Code of Ukraine (2012) first introduced the concept of AEO in Ukrainian customs legislation. It should be noted that, unlike the pre-specified concepts of customs simplifications
AEO is a category of international law. AEO is defined as a company established under the laws of Ukraine, which meets the determined conditions and should be entitled to special simplifications in accordance with the Code in certain manner.

To obtain an AEO certificate entities must meet the following conditions:
1) conducting foreign economic activities for more than three years;
2) absence of underpayments and tax debts;
3) absence of violations of customs rules by entity officials for three years before applying;
4) system of accounting of goods which allows the customs authorities to reconcile data in the customs declarations with internal accounting documents;
5) absence of unpaid tax assessments as a result of customs audits.

In order to obtain the status of AEO entity shall submit to the customs application which is attached the questionnaire with the results of self-assessment conducted by the applicant on the following criteria: compliance with the legislation of Ukraine, including on the customs affairs; a system of reporting and accounting of goods, vehicles; solvency; compliance with safety standards. However, an analysis of AEO self-assessment criteria (Berezhnyuk, 2012, p. 9) shows lack of some important aspects related to security, for example HR security, that makes quite vulnerable security component of AEO.

Qualifying entity as an AEO Customs issues it an AEO certificate and includes it in the Unified Register of AEOs. The order of application of special simplifications provided to the AEO was approved in 2012 by the decree № 447 of the Cabinet of Ministers of Ukraine and established its peculiarities according to type of certificate (see Table 1).

Table 1

<table>
<thead>
<tr>
<th>Type of certificate</th>
<th>Special simplifications according to type of AEO certificate</th>
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<tr>
<td><strong>the certificate on safety and security</strong></td>
<td>1) reduced amount of information that must be given to customs authorities pre-arrival on the customs territory of Ukraine and/or disposal of the customs territory of Ukraine of goods, vehicles; 2) temporary storage of goods, vehicles under customs supervision in rooms, in opened and closed grounds venues of AEO; 3) removal of customs guarantee bonds without customs permission; 4) consignment from buildings, outdoor and indoor grounds of AEO without showing its to customs authority of departure.</td>
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<tr>
<td><strong>the certificate on the simplification of customs procedures</strong></td>
<td>1) customs control as a priority; 2) placing goods in closed temporary storage without obtaining permission of the customs; 3) exemption from providing guarantees of internal customs transit of goods (excluding excise) if the declarant is AEO; 4) customs clearance at the facilities of AEO; 5) the submission one customs declaration, if during defined time, agreed with the customs authorities, goods repeatedly imported into the customs territory of Ukraine or exported abroad by one person according to one international contract.</td>
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In practice, AEO status is still not available to Ukrainian entities due to absence of appropriate regulations. In 2013 the Ministry of Revenues and Duties of Ukraine (so-called Mindohodiv which was organised in the course of consolidating the State Tax Service and State Customs Service during 2012-2013) started the work under drafting of:
- the order of Mindohodiv "On granting the entity the status of AEO" and "On procedure for granting and revocation the status of authorized (approved) exporter by customs authority";
- the Law of Ukraine "On Amendments to the Customs Code of Ukraine on simplification of customs formalities for authorized persons".

So, one of the most advanced innovations of Customs Code of Ukraine is implementing new subject of foreign economic activity – the AEO. Of course, the AEO status, especially if it is aligned to the SAFE Framework will improve business because actually allow to use special simplifications that improve the customs formalities. However, the AEO has to perform additional obligations to the Customs and take responsibility for their failure (Berezhnyuk, 2013, p. 356). Summarizing, it should be emphasized that AEO
offers an opportunity for Customs to share its security responsibilities with the private sector, while at the same time rewarding them with a number of facilitation benefits.

References


