

Beginning of May 2012, the EU and the US agreed on a mutual recognition of their programs identifying secure operators. In Europe, this concerns the AEO-S and AEO-F (Authorized Economic Operators, Security and Authorized Economic Operators, Full). And on the other side of the Atlantic, this concerns C-TPAT registered companies (Customs-Trade Partnership Against Terrorism).

Mutual recognition is one of the facilitations foreseen in the AEO program. The objective is to streamline the entire supply chain while making it safer at the same time. In principle, when all actors on the supply chain are recognized as secure, there is less risk of terrorist attacks. With this aim, the EU is in the process of negotiating mutual recognitions of these programs with a number of countries including Japan (concluded in June 2010), Brazil and China.

However, the Mutual Recognition between the EU and the US is still very unclear on many levels.

As most operators in Europe know, the AEO program certifies not only import operations, but also export operations... which is not the case of its American counterpart. US Customs and Border Patrol (CBP) are not the responsible agency for exports which is reflected in the C-TPAT program. Including exports in this program is being considered, but the modalities are unknown on the one hand and the participation of the Department of Commerce who is the responsible agency for exports is also unknown. The CBP pilot project on certifying exports in 2011 was filed vertically.¹ The mutual recognition is therefore unbalanced from the outset.

In order to be recognized in the US C-TPAT system, European AEO-S / AEO-F must register in

a database and associate their EORI with an American MID. It sounds like a simple formality, right? And so many customs and other organizations on both sides of the Atlantic are blindly repeating this same phrase... But there seems to be a major gap in understanding which is voluntarily left blurry. A step back to explain:

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- The American C-TPAT program foresees to identify and certify every link on the supply chain from the foreign manufacturer to the US importer, all under its own banner. The manufacturer is then identified, once certified, with an MID, thus its name of “Manufacturer’s Identification.” That said, even if the manufacturer is not certified, he is still identified with an MID that the importer creates for him (often without his knowledge).²
- Well then... what about all of the other actors on the supply chain such as the trading companies, brokers, transport companies...? According to the CBP website, only manufacturers (and not trading companies and agents...) can have an MID.³
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Furthermore, in the explanations that TAXUD offers for this registration of the EORI in the US, it is directly mentioned “manufacturers / suppliers” and not other actors on the chain...⁴

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Close to four months after the signature of this mutual recognition and CBP has still not brought a clear response on this subject.

It is possible that other advantages are planned for AEO that are not manufacturers and that the MID is simply the only codification that CBP has to codify companies outside the US... But these advantages importing into the US remain unclear; US customs has not responded to this question either.

French Customs has raised these questions to the European Commission and are waiting on a response.

In brief, YES, there is a mutual recognition of the AEO and C-TPAT programs... But it is perhaps a good idea for EU operators to enquire before blindly registering. If the EU operators is NOT a manufacturer, perhaps ask his US partners to see if it is useful that he be registered, if there will really be some advantages for his goods entry into the US.

In the meantime, **Conex shall continue its questions to American Customs until we receive a satisfactory response officially.**

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Official text on the Mutual Recognition: L144/44 to 47 of 5 June 2012 :

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:144:0044:0047:EN:PDF>

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Link to register an EORI in the MID database :

<https://mrctpat.cbp.dhs.gov/>

Note that you must have given authorization to share your information with other countries in the framework of mutual recognitions when the EORI was created.

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Explanation in French : <http://www.douane.gouv.fr/data/file/7638.pdf>

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Explication of the creation of MID when the operator doesn't have one: 19 CFR 102 Appendix,
<http://www.gpo.gov/fdsys/pkg/CFR-2010-title19-vol1/pdf/CFR-2010-title19-vol1-part102-app-id908.pdf>

1. http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/ctpat/ctpat_program_information/international_efforts/mutual_recog_faq.ctt/mutual_recog_faq.pdf

2. http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/ctpat/ctpat_application_material/ctpat_security_guidelines/foreign_manufacturers/fm_security_criteria_french.ctt/fm_security_criteria_french.pdf

3. June 1st 2011 : https://help.cbp.gov/app/answers/detail/a_id/952/~/requirements-for-mid%E2%80%99s

4. http://ec.europa.eu/taxation_customs/resources/documents/customs/policy_issues/customs_security/infonote_aeo-ctpat.pdf



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