

WORK PROGRAMME

**CEFTA Subcommittee on Non-tariff
Measures**

**The Republic of Serbia
January 2017**

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INTRODUCTION

This document is the work programme of CEFTA Subcommittee on Non-Tariff Measures and its working groups, and includes the objectives, priorities of Serbia Chairmanship and the activities planned for 2017.

The Work programme is built upon the successful implementation of previous Chairmanships and outputs reached by the respective Chairs of the Subcommittee in earlier years.

1. THE SUBCOMMITTEE AS PART OF CEFTA STRUCTURES

- Subcommittee on Non-tariff Measures:
 - Working Group on Technical Measures
 - Working Group on Risk Management
 - Working Group on Electronic Exchange of Information

2. THE SUBCOMMITTEE and ITS WORKING GROUPS AS PART OF CEFTA STRUCTURES

2.1 Mandate of the CEFTA Subcommittee on Non-tariff Measures as determined by the CEFTA Ministerial Decision 1/2015

The following areas have been determined as the main mandate of the CEFTA Subcommittee on Non-tariff Measures which was established by the Joint Committee Decision No 1/2015:

- i. Exchange information on a regular basis through employing CEFTA Transparency Pack tools, in particular CEFTA Market Access Barriers Database, to identify and review complaints in each Party concerning NTMs and propose appropriate procedures to eliminate barriers to trade:
 - a) identify and discuss common problems and make recommendations to deal with them,
 - b) propose which NTBs to eliminate first and timetables for their elimination,
 - c) report to the Committee of Trade Facilitation updating the elimination process,
 - d) propose the CEFTA Joint Committee through Committee of Trade Facilitation possible measures and decisions which might be adopted at the regional level,
 - e) exchange views on a systematic basis on appropriate domestic institutional arrangements to eliminate NTBs in each Party in order to ensure the adoption of best practices;
- ii. Identify unnecessary technical barriers to trade, sanitary and phytosanitary measures, and administrative measures, hereafter referred to as technical measures, and recommend the elimination of in accordance with Article 12.2, 13.2, and Article 14.4. of CEFTA 2006;
- iii. Monitor the elimination process at national level and to report the progress to the Committee of Trade Facilitation:

- a) Establish necessary grounds to initiate negotiations to conclude mutual recognition agreements of technical measures in CEFTA upon the condition that the relevant legislation and their implementation are fully in line with the relevant EU acquis and with the relevant WTO Agreements, and with other relevant international agreements as foreseen by Articles 12.2, and 13.4. of CEFTA 2006;
 - b) Identify and recommend the elimination of non-technical measures, and exports related measures provided that those measures are in contradiction with the relevant Articles of CEFTA 2006, and to monitor the elimination process at national level and to report the progress to the Committee of Trade Facilitation.
- iv. Act as the first instance CEFTA Structure to analyse bilateral trade complaints before Special Joint Committee is called according to Article 42 of CEFTA 2006;
 - v. Coordinate technical assistance to be provided to CEFTA Parties through regional programmes in the relevant areas under the mandate of the Subcommittee.

The same decision stipulates that the members of the Sub-committee will be senior civil servants responsible for dealing with these issues in respective administrations in particular the Ministries responsible for trade, the authorities responsible for technical regulations and standards, market surveillance, conformity assessment, sanitary and phytosanitary measures, and customs.

The Sub-committee shall meet as necessary but at least once per year and shall report to the Joint Committee.

2.2 Mandate of the CEFTA Working Group on Technical Measures as determined by the CEFTA Ministerial Decision 1/2015

According to the Decision 1/2015, the main tasks of the Working Group on Technical Measures would be as follows:

- i. to identify and oversee the elimination of unnecessary technical measures or their discriminatory application in accordance with Article 12.2., Article 13.2 and 13.5 of the CEFTA 2006.
- ii. Furthermore, the Working Group will have exploratory talks:
 - a) to initiate negotiations to conclude agreements on harmonisation or mutual recognition agreement of sanitary and phytosanitary measures in accordance with the relevant provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures and other relevant international agreement in accordance with Article 12.3. of CEFTA 2006;
 - b) to initiate negotiations to conclude plurilateral agreements on harmonisation of technical regulations and standards, and the mutual recognition of conformity assessment procedures in accordance with the relevant provisions of the WTO Agreement on

Technical Barriers to Trade and other relevant international agreements in accordance with CEFTA Article 13.4.

- iii. The Working Group will undertake necessary actions to enhance transparency on all kinds of documents, certificates, permits and formalities imposed on trade by technical agencies for the clearance of goods, and exchange of information about change in those formalities, preferably through using CEFTA Transparency Pack tools.
- iv. Regarding the notification of technical regulation including any mandatory conformity assessment procedures or standard, and notification of SPS measures the Working Group will receive regular reports from notifications done by the CEFTA Parties through using CEFTA Transparency Pack in accordance with Article 12.2 and Article 13.3.b. of CEFTA 2006.
- v. Other functions of the Working Group are as follows:
 - To encourage the implementation of risk analysis based inspections in the area related technical measures in cooperation with CEFTA Working Group on risk management;
 - To make efforts on addressing behind-the-border measures in TBT and SPS;
 - To analyse the cases recorded in the CEFTA Market Access Barriers Database uploaded by each CEFTA Party in the areas related to technical measures;
 - To report to Subcommittee on NTMs possible ways for the elimination of unnecessary technical barriers to trade, and SPS which restrict access to the market;
 - To keep record of the progress in EU alignment of CEFTA Parties in the areas of SPS and TBT, if deem necessary;
 - To keep a network of Enquiry points among CEFTA Parties for TBT functioning and updated;
 - To create a network of Enquiry points among CEFTA Parties for SPS matters and keeping them updated;
 - To coordinate technical assistance in the relevant areas which fall under the mandate of the Working Group.

As defined by the Decision, members of the Working Group are government officials from the authorities in charge of technical measures including technical barriers to trade, and sanitary and phytosanitary measures.

The meetings of the Working Group will be organized at least once a year, preferably before the regular meeting of the CEFTA Subcommittee on NTMs to whom the Working Group shall report.

2.3 Mandate of the CEFTA Working Group on Risk Management determined by the CEFTA Ministerial Decision 1/2015

The specific functions of the Working Group are:

- i. Cooperation in the field of risk management of customs authorities and other governmental authorities involved in clearance of goods:

- a) To exchange information on the existing or any amendment adopted in the national rules and regulations on risk management, and its implementation;
- b) To collect and exchange statistical data regarding the performance of the application of their risk analysis, results of their inspections and of selectivity criteria in the clearance of goods;
- c) To share best practices in risk management, particularly with regard to its implementation, training of staff, administrative organisation and decision making processes, inter-agency and intra-agency cooperation and coordination, and cross-border cooperation;
- d) To cooperate, assist each other and exchange views and experiences on legal reform to be adopted by the CEFTA Parties in the context of relevant EU integration process;
- e) To discuss the implementation of regional or national projects in the field of or which may have a direct impact on customs risks management, in particular EU financed project on Systematic Electronic Exchange of Data (SEED), with an aim to develop common regional positions regarding the issues deemed to increase the relevance, efficiency, effectiveness, and impact of the projects concerned for risk management;
- f) To cooperate and exchange of information for the purpose of seamless implementation of trade facilitation related provisions of CEFTA.

ii. Explore possibilities for creating and applying joint risk profiles:

- a) To prepare a work program planning the activities need to be taken to create and apply joint risk profiles for risks which are deemed common throughout the region,
- b) To discuss common risks in the field of customs, and the most appropriate level of action to cope with those common risks,
- c) If justified according to the point above, to initiate the preparation process for developing joint profiles,
- d) In this task, priority to be given on developing non-risk areas on which a number of low risk profiles could be developed with a view to facilitate the regional trade through simplification of procedures and reduce the formalities imposed on trade,
- e) To encourage the widespread implementation of risk analysis based inspections throughout the CEFTA Region by all governmental authorities involved in clearance of goods.

Members of the Working Group are government officials in charge of risk management of the Customs Authorities, Other Governmental Authorities in charge of clearance of goods of the CEFTA Parties, particularly the one responsible for conformity assessment and inspections for technical regulations and standards and sanitary and phytosanitary measures.

The meetings of the Working Group will be organized at least once a year, preferably before the regular meeting of the CEFTA Subcommittee on NTMs. The Working Group shall report to the CEFTA Subcommittee on NTMs.

2.4 Mandate of the CEFTA Working Group on Electronic Exchange of Information determined by the CEFTA Ministerial Decision 1/2015

The specific functions of the Working Group are:

- 1) Cooperation in the field of electronic exchange of information
 - To exchange information and discuss all the issues for the sake of ensuring seamless functioning of electronic exchange of information between CEFTA Parties and functioning of CEFTA Management Information System;
 - To exchange information on the existing or any amendment adopted in the national rules and regulations on electronic exchange of information between CEFTA Parties, and its implementation;
 - To share best practices in electronic exchange of information, particularly with regard to its implementation, training of staff, administrative organisation and decision making processes, inter-agency/institution and intra-agency/institution cooperation and coordination, and cross-border cooperation;
 - To cooperate, and assist each other and exchange views and experiences on legal and procedural alignment to be adopted by the CEFTA Parties in the context of relevant EU integration process, in particular with the interoperability between national IT systems and EU Databases;
 - To discuss the implementation of regional projects in the field of electronic exchange of information, with an aim to develop common understandings to address the functioning and sustainability related issues to increase the relevance, efficiency, effectiveness, and impact of the projects concerned.
- 2) Explore possibilities for extending the scope of electronic exchange of information in all types of clearance stages
 - To propose legal, and procedural possibilities in the framework of CEFTA in order to ensure sustainability of data exchange, and extend the scope of information/documents/data exchanged electronically, and to include other governmental agencies and institutions than the Customs Authorities in electronic exchange of information; and
 - to propose the most feasible IT related solutions to serve the overall objective of trade facilitation and deterrent security, and safety related controls;
 - In this task, priority is to be given to include the pre-arrival electronic exchange of information/documents/data between Governmental Authorities and Agencies involved in clearance of goods, and between SPS and TBT Authorities, and Customs Authorities into the existing or new IT tools for the electronic exchange of information/documents/data with a view to facilitate the regional trade through simplification of border clearance procedures and reduce the formalities imposed on trade.

Members of the Working Group are government officials in charge of information technology and electronic data exchange, of Ministries competent for Trade, Customs Authorities and Other Governmental Authorities of the CEFTA Parties involved in the clearance of goods.

Experts from other public authorities of the CEFTA Parties or from other countries or international organisations/ institutions may be invited to attend the meetings at the request of the Chair of the Working Group to provide advice or introduce the best practice where needed. They have no rights in decision making and can be asked to leave the meeting at any time by the Chair.

In the issues requiring specific technical IT knowledge, in particular for the functioning of the existing IT tools for the electronic data exchange, the Working Group may decide to benefit from technical consultancy which can be contracted by the CEFTA Secretariat.

3. CEFTA Ministerial Conclusions of 2016 in relation to trade facilitation and Subcommittee on Non-tariff Measures

In the meeting of 9th of December 2016, CEFTA Ministers declared that the negotiations on the Additional Protocol 5 on Trade Facilitation had been concluded successfully.

They consider that a key challenge before CEFTA Parties is to implement the Additional Protocols of CEFTA on trade facilitation , once it enter into force, in a manner that contributes to the economic growth of our Region.

Ministers instructed the CEFTA Secretariat to propose the draft consolidated agenda with an action plan to facilitate the efforts of CEFTA structures under the CEFTA chairmanship of Serbia in 2017 to foster the regional economic integration as emphasized by the conclusions of the latest Western Balkans Summit in Paris. In this endeavor, the assistance of international organizations to the CEFTA Structures in accordance with their areas of expertise, in particular the technical and financial assistance of the World Bank Group as underlined by the Paris Summit, is of crucial importance.

Recognizing the need to elaborate the implementing provisions of the two mutual recognition programs as foreseen by the CEFTA Additional Protocol on trade facilitation before the Additional Protocol enters into force for the sake of predictability and transparency, Ministers also instructed the relevant CEFTA structures to conclude the preparation of implementing provisions for the mutual recognition of border documents and Authorised Economic Operators, and to make the implementing provisions ready for the adoption of the Joint Committee by the end of 2017.

2 OBJECTIVES OF THE CHAIRMANSHIP

Serbia has identified the following objectives for its Chairmanship of CEFTA Subcommittee on Non-tariff Barriers as follows:

- 1) To address non-tariff barriers in CEFTA and report the progress on the elimination of NTBs by the CEFTA Parties
- 2) To contribute to the actions of the relevant CEFTA structures to conclude the preparation of implementing provisions for the Mutual recognition of border documents and procedures and AEO through its working groups
- 3) To contribute to the finalisation of list of data to be exchanged bilaterally in addition to Annex 1 of the AP 5

3 PRIORITIES OF THE CHAIRMANSHIP

The Chairmanship of Serbia has identified objectives for 2017 as follows:

Objective 1: To address non-tariff barriers in CEFTA and report the progress on the elimination of NTBs by the CEFTA Parties

Priority 1: Identification of new NTBs through private sector

The Subcommittee will benefit from the EU financed project on Trade Facilitation to be implemented by GIZ and ITC to do a similar exercise with the GIZ project “Addressing Market Access Barriers in

Selected Supply Chains” to address NTBs in CEFTA Trade. In that framework, private sector will be consulted to address NTMs that are encountered.

The NTMs identified by the private sector will then be assessed whether they can be classified as NTBs or not.

Similar to the previous project, the Subcommittee will do validation of the identified NTBs.

Priority 2: Report the progress on the elimination of NTBs by the CEFTA Parties

The Subcommittee will be the main CEFTA body to monitor the elimination of NTBs as registered by the Market Access Barriers Database and discuss any new NTBs reported by the CEFTA Parties. In this framework, the update of Market Access Barriers Database and CEFTA Transparency Pack is extremely important.

In addition, the Subcommittee will monitor the progress made by the CEFTA Parties in elimination of the NTBs identified and validated by the earlier project financed by GIZ /implemented by UNCTAD/ITC.

Objective 2: To contribute to the actions of the relevant CEFTA structures to conclude the preparation of implementing provisions for the Mutual recognition of border documents and procedures and AEO through its working groups

Priority 3: To prepare draft Decision on the implementing provisions of the mutual recognition (MR) of Border Documents and Procedures in close cooperation with SC on SPS and Agriculture and assist in preparing draft Decision on the implementing provisions of the mutual recognition of AEO, if needed

The Working Groups of Subcommittee together with SC on SPS and Agriculture will be the main CEFTA Structure in preparation of draft decision on the implementing provisions of the border documents and procedures as required by the Additional Protocol 5.

In this regard, three working groups of the Subcommittee may work jointly. In case of necessity, the assistance from SEED Team and the EU project on Trade Facilitation, and other international organisations such as World Bank Group can be received.

In addition to the involvement in preparation of the draft Decision on the implementing provisions of the MR of Border Documents and Procedures, the Subcommittee on NTMs, in particular its Work Group on Risk Management, will avail itself to assist the Subcommittee on Customs and Rules of Origin in preparation of the similar draft Decision related to the mutual recognition of AEO, if needed and upon the request of the Chair of Subcommittee on Customs and Rules of Origin.

Priority 4: Contribution to steering of the SEED Maintenance and Development Project

The Working Groups will be instructed by the Chair to contribute to the implementation of SEED

Maintenance and Development project and to start the preparation of CEFTA Structures for the upcoming of SEED + Project.

In particular, the Working Group on Risk Management is deemed to be instrumental for increasing awareness of TBT and SPS authorities on the importance of risk management, and the Working Group on electronic exchange of information for determining the scope of SEED Maintenance and Development and SEED + projects (IT solutions) which are crucial for the implementation of CEFTA Additional Protocol 5.

Objective 3: To contribute to the finalisation of list of data to be exchanged bilaterally in addition to Annex 1 of the AP 5

Priority 5: Preparation of the final drafts of data exchange lists to be incorporated to the Additional Protocol 5 in addition to the regional lists of its Annex 1

During the negotiations of the AP 5, CEFTA Parties decided to detach the bi-lateral lists of data exchange from the main texts of the AP 5 and postponed the finalisation of those lists to a later stage.

The working groups of the Subcommittee (i.e. WB on Electronic Exchange of Information and Risk Management) will start the negotiations on the bi-lateral lists and finalise them. Once those lists are finalised, the relevant CEFTA Parties will be invited to notify those lists to the CEFTA Joint Committee in written as required by the AP 5.

4 ACTIVITIES OF THE CHAIRMANSHIP

Objective 1: To address non-tariff barriers in CEFTA and report the progress on the elimination of NTBs by the CEFTA Parties

Priority 1: Identification of new NTBs through private sector

Activity 1: Update of the CEFTA Transparency Pack and CEFTA Market Access Barriers Database

The Chair will remind all CEFTA Parties to update the CEFTA Transparency Pack and Market Access Barriers Database. In case of new NTBs reported, the Subcommittee will avail itself for discussion among the relevant CEFTA Parties regarding those disputes.

Activity 2: Using private sector as advisory to identify new NTBs

The Subcommittee will proactively seek the advice of private sector to identify new NTBs. In this regard the new EU project on Trade Facilitation will be used to establish private sector advisory groups and to consult with them to identify new NTBs.

Priority 2: Report the progress on the elimination of NTBs by the CEFTA Parties

Activity 1: Monitoring the Elimination of Reported NTBs

The Subcommittee will actively monitor the progress recorded in each CEFTA Party regarding the reported NTBs. These NTBs will include the ones registered in the CEFTA Market Access Barriers Database, and the ones reported by the GIZ financed project.

The Subcommittee will allocate a separate agenda item to review the progress made in those issues.

Activity 2: Reporting the Progress in the Elimination of Reported NTBs to Private Sector

The Subcommittee will look for appropriate platforms to report back to the private sector of the elimination NTBs which have been identified. The advisory groups to be established by the EU project on trade facilitation would be deemed to use for such dialogue.

Objective 2: To contribute to the actions of the relevant CEFTA structures to conclude the preparation of implementing provisions for the Mutual recognition of border documents and procedures and AEO through its working groups

Priority 3: To prepare draft Decision on the implementing provisions of the mutual recognition (MR) of Border Documents and Procedures in close cooperation with SC on SPS and Agriculture and assist in preparing draft Decision on the implementing provisions of the mutual recognition of AEO, if needed

Activity 1: Preparing the draft Ministerial Decision on the Implementing Provisions of the Mutual Recognition of Border Documents and Procedures as foreseen by the AP 5

The Working Groups of Subcommittee will be responsible to prepare the draft Ministerial Decision on the Implementing Provisions of Mutual Recognition of Border Documents together with Subcommittee on SPS and Agriculture. They will have joint meetings. The Chair will advise each delegation to be chaired by their Ministries of Trade.

The draft Ministerial Decision for the implementing provisions will be ready by the CEFTA Joint Committee meeting for their adoption.

The Chair may invite the assistance from Subcommittee on Customs and Rules of Origin, SEED Team and the EU project on Trade Facilitation, and other international organisations such as World Bank Group.

Activity 2: Contributing to the Subcommittee on Customs and Rules of Origin in drafting Decision on the Implementing Provisions of Mutual Recognition of AEO

Subcommittee on Customs and Rules of Origin is to prepare draft Decision on the implementing provisions of mutual recognition of AEO.

However, upon its request, Subcommittee on NTMs, in particular its Working Group on Risk Management, avails itself to assist the Subcommittee on Customs and Rules of Origin in drafting decision, mainly by providing valuable comments and recommendations to the prepared draft.

Priority 4: Contribution to steering of the SEED Maintenance + Project

Activity 1: Synchronising the work of WG on Electronic Exchange of Information with SEED Project (SEED Maintenance and Development Project)

The Working Group will have joint meetings with the SEED Project and will take over the steering work for the implementation of SEED Maintenance *and Development Project*. In that sense, the WG on Electronic Exchange of Information may have back-to-back meetings with SEED Project and carry up the issues related to project implementation to the higher CEFTA structures.

Objective 3: To contribute to the finalisation of list of data to be exchanged bilaterally in addition to Annex 1 of the AP 5

Priority 5: Preparation of the final drafts of data exchange lists to be incorporated to the Additional Protocol 5 in addition to the regional lists of its Annex 1

Activity 1: Finalisation of the preparation of bi-lateral lists of data

The Chair of Subcommittee will initiate a written procedure to remind CEFTA Parties to finalise the preparation of list of bi-lateral data exchange which could be incorporated into the AP 5 through written notification.

The CEFTA Parties may prefer to finalise those lists through bi-lateral consultations. When the AP 5 enters into force, if any of CEFTA Parties plans to exchange more data with one of their neighbouring Party or more, those lists need to be notified to the CEFTA Joint Committee in written.

The working groups of the Subcommittee (i.e. WB on Electronic Exchange of Information and Risk Management) will avail themselves for the negotiations of the bi-lateral lists and finalise them. Once those lists are finalised, the relevant CEFTA Parties will be invited to notify those lists to the CEFTA Joint Committee in written as required by the AP 5.

5 EXPECTED RESULTS

The results of the Serbian Chairmanship are expected to lead to the following outcomes corresponding to the three objectives mentioned above:

Objective 1: To address non-tariff barriers in CEFTA and report the progress on the elimination of NTBs by the CEFTA Parties

- New set of NTBs are identified.
- CEFTA Transparency Pack is updated.

- Private sector in CEFTA Parties is informed reported about the progress in elimination of the reported NTBs.

Objective 2: To contribute to the actions of the relevant CEFTA structures to conclude the preparation of implementing provisions for the Mutual recognition of border documents and procedures and AEO through its working groups

- The draft Ministerial Decision on Implementing Provisions for Mutual Recognition of Border Document is ready for adoption by the CEFTA Joint Committee
- The draft Ministerial Decision on Implementing Provisions for Mutual Recognition of AEO Document is ready for adoption by the CEFTA Joint Committee

Objective 3: To contribute to the finalisation of list of data to be exchanged bilaterally in addition to Annex 1 of the AP 5

- Bi-lateral lists of data exchange are ready to be notified to the CEFTA Joint Committee

6 RISKS AND ASSUMPTIONS

The Chair foresees that the following issues are out of its control but assumes that any negative development thereon which may endanger the smooth functioning of the Agreement will be prevented by the joint effort of all CEFTA Parties.

- Each CEFTA Party remains committed to the CEFTA process and its provisions;
- Coordination with TBT, SPS and Customs Authorities who will attend the meetings of Subcommittee and Working Groups will be made by Ministries responsible for trade on time and with high quality;
- International donors remain committed to support financially the CEFTA.

7 CALENDAR OF EVENTS

The tentative calendar for the year 2017 is as follows:

MEETING/EVENT	DATE	PLACE
3 rd Meeting of Subcommittee on NTMs	Beginning of April/late May (after 20 th) 2017	Belgrade
1 st Meeting of the Working Group on Technical Measures	Beginning of April/late May(after 20 th) 2017	Belgrade
1 st Meeting of the Working Group on Risk Management	Beginning of April/late May(after 20 th) 2017	Belgrade
1 st Meeting of the Working Group on Electronic Exchange of Information	Beginning of April/late May(after 20 th) 2017	Belgrade
SEED Maintenance and Development Project Meeting	June 2017	Belgrade
Ad-hoc Technical Meetings on NTMs	October 2017	Brussels/CEFTA Parties
4 th Meeting on Subcommittee on NTMs	November 2017	Belgrade