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1. BACKGROUND INFORMATION

1.1. Beneficiary

The Signatory Parties of the Central European Free Trade Agreement (CEFTA) 2006 (“Agreement”)¹ (“CEFTA Parties”).

1.2. Contracting Authority

The Secretariat of the Central European Free Trade Agreement 2006 on behalf of the CEFTA Parties (“Secretariat”).

1.3. Country background

On December 19, 2006, Albania, Bosnia and Herzegovina, Croatia, Macedonia, Moldova, Montenegro, Serbia, and the UNMIK on behalf of Kosovo in accordance with the UNSC Resolution 1244, signed an Agreement to amend and enlarge the Central European Free Trade Agreement.

Following the necessary ratification processes, the Agreement entered into force on 26 July 2007 for five signatories (Albania, Macedonia, Moldova, Montenegro, and UNMIK/Kosovo), for Croatia on 22 August 2007, Serbia on 24 October 2007 and for Bosnia and Herzegovina on 22 November 2007. The speed with which the Parties ratified this ambitious Agreement indicated its importance to economic development in the region. On 1 July 2013, Croatia withdrew from the Agreement to join the EU.

The Agreement’s main objectives are, inter alia, to expand trade in goods and services, and foster investment by means of fair, stable and predictable rules, eliminate barriers to trade between the Parties, provide appropriate protection of intellectual property rights in accordance with international standards and harmonise provisions of modern trade policy issues such as competition rules and state aid. It also includes clear and effective procedures for dispute settlement and facilitates the gradual establishment of the EU-Western Balkan countries zone of diagonal cumulation of origin, as envisaged in the EC’s Communication of 27 January 2006.

The Agreement fully conforms to the WTO rules and procedures and relevant EU acquis. Effectively implemented, the Agreement provides an excellent framework for the Parties to be prepared for EU accession, thus continuing the tradition of the original CEFTA, whose founding members are now in the EU.

CEFTA Structures

With the entry into force of the Agreement, the work on facilitating, managing, monitoring and promoting trade relations is managed through the CEFTA institutions. These institutions consist of:

CEFTA Joint Committee

The governing body of CEFTA is a Joint Committee (Article 40 of the Agreement). It is composed of Ministers of Trade and Economy of each CEFTA Party and its main function is to supervise and administer the implementation of the Agreement and adopt binding decisions regarding the commitments/obligations of the Parties stemming from the Agreement, if necessary. The Committee, as well as all CEFTA Subcommittees and activities so far carried out until the date of Joint Committee

¹ Albania, Bosnia and Herzegovina, Macedonia, Moldova, Montenegro, Serbia, and the UN Interim Administration Mission in Kosovo (UNMIK) on behalf of Kosovo in accordance with the UNSC Resolution no: 1244

meetings, are reported and discussed by the Joint Committee. Joint Committee meetings are chaired by the Party which runs the CEFTA rotating Chairmanship in that respective year.

CEFTA 2006 Committee, Subcommittees and Working Groups

In accordance with Article 41.5, the Joint Committee has the power to establish appropriate organs such as committees, subcommittees and other bodies to support the implementation of the Agreement. The structure has developed gradually reflecting the needs from the implementation of the Agreement since 2007. To date, two committees, four subcommittees and six working groups have been established, their names and main objectives of which are listed below:

- **Committee of Contact Points**

Objective: to support the smooth functioning of the Agreement and the fulfilment of the decisions, conclusions and recommendations of the Joint Committee, both within the Contracting Party concerned and with all CEFTA stakeholders.

- **Committee of Trade Facilitation**

Objective: to address the issues which are related to facilitating regional trade in CEFTA with a view to reduce costs caused by the inefficient types of clearance procedures, while balancing trade facilitation with the increasing requirements for safety and security measures in the international and regional supply chain.

- **Subcommittee on Agriculture including Sanitary and Phytosanitary Issues**

Objective: to facilitate trade in agricultural products within the Region and ensure that protection of plant health, animal health and food safety and other measures applied in agricultural trade do not unjustifiably restrict trade.

- **Subcommittee on Customs and Rules of Origin**

Objective: to simplify and facilitate customs procedures, stimulate rapid implementation of the common rules of origin in the CEFTA Parties in line with Article 14 of the Agreement.

- **Subcommittee on Non-Tariff Measures**

Objective: to identify non-tariff measures, defined as policy measures other than ordinary customs tariffs that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both, and classified as technical measures, non-technical measures, and exports related measures; review those identified non-tariff measures, and propose measures for elimination of non-tariff measures which constitute non-tariff barriers to trade among the Parties.

- **Subcommittee on Trade in Services**

Objective: to strengthen and deepen the intra-regional cooperation in the field of trade in services by facilitating the implementation of the commitments stipulated in Articles 26-29 of the CEFTA 2006. Main tasks are: coordinate, oversee and streamline the work of bodies established under the Subcommittee; monitor the progress on liberalisation of trade in services; facilitate and supervise the implementation of Additional Protocol on Trade in Services; exchange information on regulatory reform in services sectors and promote intra-regional cooperation between regulatory bodies, governmental agencies and professional associations in charge of services; identify, review and propose measures for elimination of barriers in trade in services among Parties.

- **Working Group on Trade in Services Statistics, FATS and FDI Statistics**

Objective: to improve the quality of international trade in services statistics across the CEFTA Region and harmonise statistics with those of the European Union. The main functions are: review the quality and coverage of available trade in services statistics, FATS and FDI statistics in the region and

propose appropriate solutions for improvements; identify priorities for further developing statistics for commonly agreed sectors; provide necessary data in order to set up an operational reporting system to the Secretariat; assist the Secretariat in creating a sustainable platform for dissemination of statistical data on trade in services, FATS and FDI statistics; identify needs of users of statistics for purposes of analysis and communicate it to the relevant compilers authorities.

- **Joint CEFTA-RCC-ERISEE Working Group on Recognition of Professional Qualifications:**

Objective: to enhance the intraregional trade in services by facilitating recognition of professional qualifications with a view of encouraging overall labor mobility. The main tasks of the WG are: (1) developing processes for recognition of professional qualifications in selected professions of mutual interest, (2) exploring the potential for conclusion of mutual recognition agreements (MRAs), (3) enhancing transparency of national and regional arrangements on recognition of professional qualifications, and (4) enhancing regional data exchange on the mobility of professionals and future skills needs in selected professions.

- **Working Group on Technical Measures**

Objective: to provide working level forum to address exclusively non-tariff measures stemming technical measures, in particular sanitary and phytosanitary measures, and technical barriers to trade; to discuss at the expert level the methods and tools to eliminate the discriminatory measures constituting non-tariff barriers to trade in line with Article 12.2. and Article 13.2., and Article 13.5. of CEFTA 2006; to initiate exploratory talks to conclude mutual recognition agreements in the relevant areas of technical measures as foreseen by Article 12.3. and Article 13.4. of CEFTA 2006, conditional upon the full alignment with the relevant EU acquis and implementation of the aligned legislation in line with the EU and in line with WTO Agreements and other international agreements.

- **Working Group on Risk Management**

Objective: to develop and broaden cooperation among CEFTA Parties, according to Article 12, 13, and 14 of CEFTA 2006, particularly with a view to proposing the possibilities of taking joint actions related to the management of public authorities and agencies involved in clearance of goods at the regional level, as far as possible, aiming at facilitating the regional trade while improving the overall quality and deterrence of customs, security, and safety controls and inspections.

- **Working Group on Electronic Exchange of Information**

Objective: to develop and broaden cooperation among CEFTA Parties, according to Article 12, 13, and 14 of the CEFTA 2006, particularly to address the issues which are related to the functioning and sustainability of the existing or new IT capacities and tools to be created between the CEFTA Parties in the framework of CEFTA and CEFTA Management Information System; proposing solutions for the CEFTA Region with an aim to facilitate the regional trade, while improving the overall quality and deterrence of customs, security and safety controls and inspections.

CEFTA Secretariat

In accordance with Article 40.2 of the Agreement, the Joint Committee is supported by a permanent Secretariat located in Brussels. The overall role of the Secretariat is to provide technical and administrative support to the Joint Committee and to any committee, subcommittee, working group or other body established by the Joint Committee for the smooth implementation of the Agreement. The Secretariat headed by its Director employs two international technical experts and one executive assistant, two locally recruited part-time financial and IT administrator and four national seconded experts from CEFTA Parties.

CEFTA Project Facility

Given that CEFTA has entered into a phase where issues in all areas are getting both more technical and increasingly complex, the implementation of the Agreement requires permanent and efficient coordination among the Parties. Thus, timely identification and articulation of interest at the individual Party level, as well as at the multilateral one, has become a prerequisite to the successful implementation of the Agreement.

The deepened implementation, on the other hand, requires much stronger coordination with the EU alignment process. It obliges the CEFTA Structures to mobilise further international expertise – which might sometimes be mobilised quicker and more cost efficient than the ones ensured indirectly by the donors – while securing the regional contribution in technical activities to be undertaken according to CEFTA priorities. From all these implementation points of view, high quality analytical work and technical expertise to support the decision-making processes of CEFTA are required, which in turn has put some budgetary pressure on the Parties.

Upon the needs above mentioned, the CEFTA Secretariat undertook preliminary talks with the European Commission to establish a project facility that might be used to financing such short term and small budget actions according to the CEFTA priorities. Once the positive response was given by the Commission, the formal application letter to the Commission for the CEFTA Project Facility was sent by Albania on 21 October 2011, as the CEFTA Chair in Office of the upcoming year. The Contribution Agreement creating the CEFTA Project Facility (CPF) third phase was signed on 30 April 2015 between the Secretariat and the European Commission. The third phase of CPF was extended in April 2018 and will last until December 2019.

1.4. Current situation in the sector

The mandate of CEFTA Secretariat was modified at the Joint Committee meeting held in Sarajevo on 20 November 2013, where the Secretariat was given a mandate to support the CEFTA Parties in the implementation of the trade related components of the South East Europe 2020 Strategy. The same decision of the Joint Committee has mandated the Secretariat to liaise with the European Commission and other relevant partners to secure and manage technical and financial assistance on behalf of the CEFTA Parties.

Regarding trade on services the competent CEFTA body is Subcommittee on Trade in Services. The Chair of the Subcommittee on Trade in Services is the current Chair in Office of CEFTA in a given year. The Subcommittee meets at least once per year, if necessary can meet more frequently. The meetings are usually held back to back with the meetings of the Deputy Ministers in June/July and with the meeting of the Joint Committee in November/December of each year. The members of the Subcommittee are senior officials of ministries responsible CEFTA issues and trade in services.

Knowing the importance of e-commerce for intra-regional trade and the existing challenges in e-commerce in the CEFTA region, one of the main objectives of the CEFTA Parties and in the work programme of the CEFTA Chair for 2018 – Kosovo*² is to initiate the process for facilitating a dialogue on regulatory issues in e-commerce, and accordingly develop the means for addressing barriers in E-Commerce among the CEFTA Parties.

Article 28 of the CEFTA Agreement is the legal basis for developing e-commerce in the CEFTA region. In view of the prospective Additional Protocol 6 which shall address in details all relevant aspects of the e-commerce among the CEFTA Parties, the Consolidated Multi-annual Action Plan for the Regional Economic Area in the Western Balkans has set the elements in the Objective 1.4.4, as well as the Work Programme of CEFTA Subcommittee on Trade in Services for 2018.

Additional Protocol 6 (however it has not entered into force yet) in Article 18 addresses the following issues:

² *This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

- the recognition of certificates of electronic signatures issued to the public and the facilitation of cross-border certification services;
- the liability of intermediary service providers with respect to the transmission, or storage of information;
- the treatment of unsolicited electronic commercial communications;
- the protection of consumers in the ambit of electronic commerce;
- Any other issue relevant for the development of electronic commerce.

Furthermore, in the work programme of CEFTA 2018 in the services sector, the following actions were foreseen in order to promote developing of e-commerce:

- Launching of the regional dialogue on regulatory issues in electronic commerce;
- Identifying barriers to eCommerce and assess its impacts on trade;
- Identifying necessary conditions for recognition of certificates of electronic signature;
- Explore actions aimed at increasing citizen's trust in online services and coordination on e-commerce trust marks;
- Explore best practice to digital market places to grow SME businesses and drive consumer welfare;
- Addressing treatment of unsolicited electronic commercial communications.

Nevertheless, some common cross-border technical barriers in e-commerce in the WB6 include but are not limited to: better access of consumers and businesses to digital goods and services abroad, harmonization of rules on contracts and consumer protection when buying online, lack of trust in e-commerce services, lack of copyright enforcement, electronic identity, online payments, tax barriers, delivery challenges (parcel delivery), as well as VAT payments, customs duties etc.

Following the abovementioned commitments deriving from AP6, the CEFTA Secretariat shall hire two experts to deliver a report (study) on **Electronic Commerce**.

1.5. Related programmes and other donor activities

The South East Europe 2020 Strategy was adopted at the Ministerial Conference of the South East Europe Investment Committee in Sarajevo on 21 November 2013.

The goal of the SEE 2020 strategy is to improve living conditions in the region and bring competitiveness and development back in focus, closely following the vision of the EU strategy Europe 2020. It stresses out the shared vision of the SEE economies to open up to 1 million new jobs by 2020, by enabling employment growth from 39% to 44%, increase of total regional trade turnover by more than double from 95 to 210 billion EURO, the rise of the region's GDP per capita from current 36% to 44% of the EU average, and the addition of 300,000 highly qualified people to the workforce.

The SEE 2020 includes five different pillars. The Integrated Growth pillar, which is to be led by the CEFTA Structures as the dimension coordinator, foresees actions in relation to trade and investment.

The text of SEE 2020 strategy is available at the following link:

<http://www.rcc.int/pages/0/62/south-east-europe-2020-strategy>

The prioritisation in programming of areas to which the CPF Funds are to be allocated follows the priority actions of SEE 2020, in particular the actions under the Integrated Growth Chapter in which the CEFTA Secretariat is assigned as dimension coordinator.

2. OBJECTIVE, PURPOSE & EXPECTED RESULTS

2.1. Overall objective

The overall objective of the project of which this contract will be a part is as follows:

To facilitate the process of launching a regulatory dialogue for further developing e-commerce in the CEFTA region in compliance with the EU legislation.

2.2. Purpose

The purpose of this contract is as follows:

To report on Trade Regime, Legislation and Policy Measures in the sector of E-commerce in CEFTA Region.

2.3. Results to be achieved by the Contractor

A detailed report on trade regime, legislation and policy measures in the sector of electronic commerce for each CEFTA party and cross-border, including but not limited to:

- Barriers identified at national and regional level, including proposals for elimination; impact/importance of e-commerce on intra-regional trade reviewed;
- Possibilities for launching a dialogue on regulatory issues assessed, including recommendations and next steps;
- Possibilities for launching a dialogue on regulatory issues assessed, including recommendations;
- Possibilities for addressing treatment of unsolicited electronic commercial communications assessed, including recommendations and next steps;
- Protection of consumers analysed including recommendations.

3. ASSUMPTIONS & RISKS

3.1. Assumptions underlying the project

The experts will get in contact with the relevant MAP REA digital contact points both within ICT relevant ministries and the regulators, whenever the study's elaboration requires information, consultations, validations etc.

3.2. Risks

The potential risk is that most of the CEFTA parties have not advanced significantly in the field of electronic commerce, thus do not provide the right information and possibly the expert will face lacking of cooperation from any of the parties. To overcome this, the Consultant is expected to consult other sources of information, whenever necessary.

4. SCOPE OF THE WORK

4.1. General

4.1.1. Description of the assignment

The objective of the assignment is to assist the CEFTA Subcommittee on Trade in Services in the implementation of the CEFTA Agreement by facilitating the process for launching a regulatory dialogue to improve the electronic commerce sector between CEFTA parties, in compliance with the EU legislation and policies.

4.1.2. Geographical area to be covered

The assignment will cover the CEFTA region.

4.1.3. Target groups

The main beneficiaries of this assignment are the CEFTA Secretariat and members of the CEFTA Subcommittee on Trade in Services. The final beneficiaries are the CEFTA Parties.

4.2. Specific work

The specific tasks of the experts are as follows but not limited to:

- To identify all barriers to e-commerce and assess e-commerce impact on trade.
- To assess the possibilities for launching a dialogue on regulatory issues to discuss a wide range of issues, in order to facilitate cross border e-commerce in CEFTA Parties.
- To see the possibility for regional actions aimed at increasing citizen's trust in online services (payment etc.) and coordination on e-commerce trust marks. (Benefitting consumers);
- To see the possibilities for establishing recognition of certificates of electronic signature and facilitation of cross-border certification services;
- To see the possibilities to address treatment of unsolicited electronic commercial communications.
- To analyze protection of consumers in the ambit of electronic commerce.
- To identify any other issue relevant for developing the electronic commerce.
- To make recommendations and next steps both at national and regional level.

In addition to the abovementioned tasks, the experts are required to participate in the following meetings:

1. Kick-off meeting

During the kick-off meeting, the CEFTA Secretariat will provide an overview of the activities of the Secretariat and CEFTA Parties relevant for the assignment areas. The experts are expected to explain in details the work programme with methodology and timeline of activities to be used during their engagement. The aim of this meeting is to agree on further steps and address any queries regarding the implementation of the project. The kick-off meeting is expected to happen in the beginning of November 2018 -as soon as the contract is signed.

2. CEFTA Subcommittee on Trade in Services

The experts are expected to participate to the CEFTA Subcommittee on Trade in Services which will be held in Pristina on 21st November 2018 to introduce and present the project proposal.

3. Each CEFTA Partie

The experts are expected to visit each CEFTA Partie to gather information by meeting any relevant institutions for the benefits of the project.

4. CEFTA Subcommittee on Trade in Services

The experts will attend the next CEFTA Subcommittee on Trade in Services (if this one is held for a second time during the 6 months period of the project). The experts will present their findings and report on the project.

The travel costs to attend the above-mentioned meetings will be borne by the contractor and are part of the budget presented in the financial offer.

4.3. Project management

4.3.1. Responsible body

The Secretariat of the Central European Free Trade Agreement 2006 will be responsible for the management of the contract.

4.3.2. Management structure

The Director of the CEFTA Secretariat will oversee the implementation of the contract.

4.3.3. Facilities to be provided by the contracting authority and/or other parties

No facilities will be provided by the Contracting Authority.

5. LOGISTICS AND TIMING

5.1. Location

The Consultants will be homebased.

5.2. Start date & Period of implementation of tasks

The intended start date is 10th November 2018 and the period of implementation of the contract will be 6 months from this date.

6. REQUIREMENTS

6.1. Staff

Note that civil servants and other staff of the public administration of the partner country, or of international/regional organisations based in the country, shall only be approved to work as experts if well justified. The justification should be submitted with the tender and shall include information on the added value the expert will bring as well as proof that the expert is seconded or on personal leave.

6.1.1. Key experts

The implementation of the Terms of Reference requires the inputs of one Senior Expert (Team Leader) with a high level of knowledge in electronic commerce and/or professional services regulation, and one Junior Expert with high level of knowledge and experience in electronic commerce that will assist the Senior Expert.

Note: for the benefits of the project and because a great part of work is related to legislation, preference will be given to those applicants that propose one of the experts with a university degree in law.

The costs for both experts and any supporting staff are considered to be included in the tenderer's financial offer.

Key expert 1: Team Leader

Qualifications and skills:

- University degree (postgraduate degrees are an advantage) in law, international trade, economics, public administration, information technology;

- Proficiency in English language (oral and written);
- Full computer literacy.

General professional experience:

- Expertise in e-commerce and/or professional services regulation.

Specific professional experience:

- At least 10 years of professional experience on trade in services out of which at least 4 years in electronic commerce;
- Familiarity with WTO/GATS rules & procedures, and EU law.

Key expert 2: Junior Expert

Qualifications and skills:

- University degree (postgraduate degrees are an advantage) in law, international trade, economics, public administration or information technology;
- Proficiency in English language (oral and written);
- Full computer literacy.

General professional experience:

- Expertise in e-commerce

Specific professional experience:

- At least 3 years of professional experience in electronic commerce;
- Familiarity with GATS and EU law in e-commerce.

6.1.2. Other experts, support staff & backstopping

CVs for experts other than the key experts should not be submitted in the tender but the tenderer will have to demonstrate in their offer that they have access to experts with the required profiles. The Contractor shall select and hire other experts as required according to the needs. The selection procedures used by the Contractor to select these other experts shall be transparent, and shall be based on pre-defined criteria, including professional qualifications, language skills and work experience.

The costs for backstopping and support staff, as needed, are considered to be included in the tenderer's financial offer.

6.2. Office accommodation

Office accommodation for each expert working on the contract is to be provided by the Contractor.

6.3. Facilities to be provided by the Contractor

The Contractor shall ensure that experts are adequately supported and equipped. In particular it must ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support their work under the contract and to ensure that its employees are paid regularly and in a timely fashion.

6.4. Equipment

No equipment is to be purchased on behalf of the Contracting Authority.

7. REPORTS

7.1. Reporting requirements

The Contractor will submit the following reports in English in one original via E-mail:

- **Interim Report** of maximum 12 pages to be produced after 3 months from the start of implementation. In the report the Contractor shall describe e.g. initial findings, progress in collecting data, any difficulties encountered or expected in addition to the work programme and staff travel. The Contractor should proceed with his/her work unless the Contracting Authority sends comments on the interim report.
- **Draft final report** of maximum 12 pages (main text, excluding annexes). This report shall be submitted no later than one month before the end of the period of implementation of tasks.
- **Final report** with the same specifications as the draft final report, incorporating any comments received from the CEFTA Secretariat on the draft report. The deadline for sending the final report is 10 days after receipt of comments on the draft final report. The report shall contain a sufficiently detailed description of the different options to support an informed decision on recommendations/next steps. The detailed analyses underpinning the recommendations will be presented in annexes to the main report. The final report must be provided along with the corresponding invoice.

7.2. Submission and approval of reports

The report referred to above must be submitted to the Project Manager identified in the contract. The Project Manager is responsible for approving the reports.

8. MONITORING AND EVALUATION

8.1. Definition of indicators

Not applicable.

8.2. Special requirements

Not applicable.

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