

**DECISION OF THE JOINT COMMITTEE OF THE CENTRAL EUROPEAN FREE
TRADE AGREEMENT**

No. 3/2017

**Amendment of Decision of the Joint Committee No. 3/2014 on the
Establishment of CEFTA Open Fund**

Adopted on 23 November 2017

The Joint Committee,

Having regard to the Agreement on Amendment of and Accession to the Central European Free Trade Agreement, CEFTA 2006, (hereinafter the "Agreement") done in Bucharest on 19 December 2006.

Having taken into account the necessity of ensuring uninterrupted functioning of CEFTA Bodies, in particular the sustainable functioning of CEFTA Secretariat,

Having regard to substantially increase in the activities undertaken by the CEFTA Secretariat based on the increase in the activities of the other CEFTA Bodies, with a deepened scope which requires a financial facility that can be mobilised in order to support its institutional capacity,

Recognizing the intention of CEFTA Parties to benefit from the savings recorded from the contributions of CEFTA Parties by having created such financial facility which will serve the objectives above,

Having regard to the effective and successful implementation of the EU aligned procurement rules in the framework of the CEFTA Project Facility by the CEFTA Secretariat,

Hereby agrees to amend the following articles of the Decision of the Joint Committee No. 3/2014 on establishing the CEFTA Open Fund:

Article 1

The new Terms of Reference to be applicable for the implementation of the CEFTA Open Fund is attached to this Decision as Annex 1 and shall replace the Terms of Reference attached to the Decision of the Joint Committee No. 3/2014.

Article 2

Article 2 of the Decision of the Joint Committee No. 3/2014 is abolished. The new text of Article 2 is as follows:

All the savings recorded in one financial year of the CEFTA Secretariat from the unused funds of the CEFTA Parties contributions to the CEFTA Secretariat and other donors except the ones requiring the reimbursement of those funds shall constitute the budget of CEFTA Open Fund.

The unused funds from CEFTA Secretariat and other donors not requiring reimbursement those funds will be transferred to the Open Fund budget after each annual expenditure verification of the CEFTA Secretariat.

This decision was adopted in the presence of all CEFTA Parties.

Adopted in Belgrade on 23 November 2017

Annex 1 to the Decision of the Joint Committee No.3/2017

TERMS OF REFERENCE OF CEFTA OPEN FUND

1. Overall Objective

The overall objective of CEFTA Open Fund is to support functioning of CEFTA Structures through the efforts of strengthening and sustaining institutional capacity of the CEFTA Secretariat.

2. Specific Objectives

The specific objective is to utilise the savings recorded from financial contributions of CEFTA Parties and donors in the areas which are not eligible for EU financial assistance but directly related to the institutional capacity of the CEFTA Secretariat.

3. Expected Results

The CEFTA Secretariat is able to respond to any challenge in the period between 2017 and 2020 and to sustain its institutional existence in an uninterrupted way through taking most appropriate actions under the principle of sound financial management.

4. Contracting Authority

The Contracting Authority of CEFTA Open Fund is the CEFTA Secretariat. The officer who is authorised to sign contracts thereof is Director of the Secretariat.

5. Procurement Rules

The CEFTA Secretariat shall apply the aligned EU Procurement rules.

6. Budget

The budget of the Open Fund is a rolling budget and will be renewed in accordance with the savings recorded after each financial year on the basis of the expenditure verification audit of the CEFTA Secretariat. Structure of the annual budget shall be proposed by the Director and approved by the Joint Committee.

7. Disbursement

The disbursement of the Open Fund will be according to the annual CEFTA Programming Document

8. Programming of the Open Fund

8.1. Identification and formulation

The identification and formulation of the areas and individual projects thereunder to be financed by the CEFTA Open Fund will be determined according to the CEFTA Programming Document

In addition to the areas and individual projects identified by the CEFTA Programming Document, the CEFTA Open Funds will be available for financing the activities in accordance to the components below.

8.2. Tendering

The tendering will be carried out by the CEFTA Secretariat. The Secretariat will be the Contracting Authority of the Open Fund on behalf of the CEFTA Parties. The tendering will follow the EU aligned procurement rules.

No works or grants contracts will be financed by the Open Fund. Supplies can be concluded in exceptional cases, in case such procurement is not foreseen by the CEFTA Programming Document or in line with the following components and provided the approval of CEFTA Parties is granted.

8.3. Implementation and Execution

The implementation of the Open Fund will fully be under the responsibility of the CEFTA Secretariat.

8.4. Monitoring and Reporting

All relevant monitoring activities in relation to the implementation of contracts signed in the framework of the Open Fund will be undertaken by the Secretariat.

All contractors will be obliged to produce reporting as required by their respective terms of reference/contracts.

The Secretariat will prepare its own reports regarding tendering, contracting and implementation of the Open Fund. The reports to be prepared and submitted to the Parties will be as follows:

Half year report: The report will list all activities tendered and contracted until 1 June of the current year, including the names of contractors, and contracted amounts. The same report will also include the contracts signed in previous years but under implementation, if any, in the current year. For the contracts under implementation, the report includes the information on disbursements, and short summary about the implementation. The report will be submitted to the Committee of Contact Points and Deputy Ministers Meeting of that year.

Annual Report: The report will list all activities tendered, contracted and under implementation until 31 December of the current year, including the names of Contractors, contracted budgets, disbursed amounts, and short summary of the implementation of each contract. Contracts signed in previous years will also be reported, if their implementation continues. The report will be submitted to the Committee of Contact Points and members of the CEFTA Joint Committee.

8.5. Auditing

The Open Fund will be part of the yearly regular external auditing of the CEFTA Secretariat.

9. Components

Component 1: Management Advisory Service to the Secretariat

In the new period, the Secretariat might need to hire a number of different advisory services to take its institutional functions. Such advisory services would be as such:

Human resources: The Secretariat employs international staff who has time-limited contracts. In the case of any vacancies, international recruitment tender needs to be launched. Hiring human resources consultant, and funding all the recruitment related costs, including the advertisement of the vacancy notices in international media, if necessary, the travel and accommodation cost of the Selection Committee members during the recruitment procedure, travel and accommodation costs of the applicants selected for an interview with the Selection Committee will be covered by the CEFTA Open Fund in order to ensure recruitment to be completed on time and in accordance with the established procedure.

Legal counsel: Regarding legal issues which are not directly related to the implementation of the Agreement, the Secretariat does not have any legal counsel for the moment. However, the number of contracts which the Secretariat is to sign will increase substantially in the new period. Thus, a legal counselling is necessary to defend the institutional interest of the Secretariat in any dispute which may arise with its staff, sub-contractors and any other legal or natural person. The cost for such legal counsel will be payable by the CEFTA Open Fund.

Component 2: Outreach and Visibility

Establishing relations with other regional organisations or attending international meetings to represent CEFTA is necessary. At these international meetings related to the implementation of the CEFTA Agreement, CEFTA Secretariat's participation is to be financed by the Open Fund according to the travel procedures of the CEFTA Secretariat.

In order to support some of the actions undertaken in CEFTA by the Secretariat for the better outreach to the private sector or academia in the CEFTA region the Open Fund would be used. This might include publishing printed materials, organising outreach events etc.

Component 3: Travel and Accommodation of the CEFTA Delegates participating in the official meetings of CEFTA Structures.

The travel and accommodation costs of the CEFTA Delegates participating in the official CEFTA Structures meetings will be payable by the CEFTA Open Fund.

In the implementation of this component, the travel and accommodation cost (including airport transfer) where the meeting is hosted of one Delegate per CEFTA Party participating in each CEFTA Structure meeting will be covered by the CEFTA Open Fund except for the regular or special Joint Committee meetings.

From the overall budget of the Open Fund, 40% will be allocated for the travel arrangements of CEFTA Delegates under this component.

Component 4 Assistance to the CEFTA Secretariat for monitoring donor-financed projects to be contracted by the CEFTA Secretariat:

In the case the CEFTA Secretariat takes over the role of contractor for EU or other donor financed projects whose budget is over 1 Million EUR or whose content requires specialised expertise such as IT, the CEFTA Secretariat will allocate the Open Fund to hire technical assistance to ad hoc monitor the implementation of those projects on its behalf, if necessary, with prior approval of CEFTA Parties.

All funds allocated for this reasons will be reimbursed once the pending payments are executed.

Component 5: Flexible Fund financing over-budgeting operational costs of the CEFTA Secretariat

In the case, the CEFTA Secretariat foresees any need for over expenditure in the budget items and sub-items of its annual budget approved by the CEFTA Joint Committee in a given financial year and in the components in the Open Fund ,

the over-expenses will be payable by the budget of the Open Fund, with prior approval of CEFTA Parties.

In the event, over-expenditures per budget item or sub-item or components do not exceed 2,500€ per cost per budget item and sub-item or components, the Director of CEFTA Secretariat is mandated to pay the amount of over-expenses with ex-post reporting to the Joint Committee.

In the event, over-expenditures per budget item or sub-item or components exceed 2,500€ per costs per budget item and sub-tem or components, the payment to overexpenses is payable by the Open Fund provided that the approval of the Joint Committee is required in advance.

The Director of the CEFTA Secretariat should communicate to the Joint Committee in written the possibility of over-expenditures 3 months in advance and request the consent of the CEFTA Parties for paying the over expenses by the CEFTA Open Fund above 2,500 EUR.

Contingency Rule

In case of delays appeared in securing the financial assistance or collecting the contributions from CEFTA Parties for the functioning of the Secretariat, the Director will have an access to the Open Fund to balance the operational budget of the Secretariat for a period until the financial assistance secured or due contributions made. The Director will inform CEFTA Chair in Office in writing before having access to such contingency funds.