

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

No. 3/2020

On the CEFTA Open Fund

Adopted on 16 December 2020

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 the uninterrupted functioning of the CEFTA Bodies, in particular the sustainable functioning of CEFTA Secretariat,

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

Recognising the intention of CEFTA Parties to benefit from unutilised funds accrued from the contributions of CEFTA Parties by having created the CEFTA Open Fund,

Having regard to the effective and successful implementation of the CEFTA Procurement manual aligned with the EU contracting and procurement rules and regulations,

Has decided:

Article 1

Pursuant to Article 40 (2) of the Agreement, the CEFTA Open Fund is established and operates under the management of the CEFTA Secretariat in accordance with the attached Terms of Reference. The Terms of Reference of the CEFTA Open Fund are annexed to this Decision and shall form an integral part of it.

Article 2

- (1) In the context of the annual contributions by the CEFTA Parties to the CEFTA budget, all unutilised contributions by the CEFTA Parties recorded in one financial year of the CEFTA Secretariat and any unutilised contributions from other donors, except those requiring the reimbursement of such funds, shall constitute the following year's budget of the CEFTA Open Fund.
- (2) When the contributions of the CEFTA Parties are co-funding the multiannual Grant, the savings shall be recorded after the expiry of the multiannual Grant. The audited funds from the CEFTA Parties and other donors, except the ones requiring the reimbursement of such funds, shall constitute the budget of the CEFTA Open Fund for the following year.

Article 3

The unutilised contributions from CEFTA Parties and other donors not requiring reimbursement shall be transferred to the budget of the CEFTA Open Fund following the annual expenditure verification of the CEFTA Secretariat's budget, when the term of the multiannual Grant is concluded.

Article 4

- (1) This Decision shall enter into force on the day of its adoption.
- (2) The Decisions of the Joint Committee No. 3/2014 and No. 3/2017 shall be repealed on the date of adoption of this Decision.
- (3) The closing balance of the CEFTA Open Fund on 31 December 2020, following the external verification, shall constitute the opening balance of the CEFTA Open Fund on 1 January 2021.

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

Adopted in Sarajevo, on 16 December 2020.

Annex 1 to the Decision of the Joint Committee No. 3/2020

TERMS OF REFERENCE OF THE CEFTA OPEN FUND

1. Overall Objective

The overall objective of the CEFTA Open Fund is to support the functioning of the CEFTA Structures through strengthening and sustaining the capacities of the CEFTA Parties and CEFTA Secretariat.

2. Specific Objectives

The specific objective is to account for the unutilised CEFTA Parties' contributions in order to cover for unforeseen expenses, which are not eligible for financial assistance provided by donors, but directly related to the capacities of CEFTA Parties and the CEFTA Secretariat, and to finance activities that are not foreseen or allocated for in the specific projects or work programmes of the CEFTA bodies.

3. Expected Results

CEFTA bodies and the CEFTA Secretariat shall respond to any challenge and sustain its existence in an uninterrupted way through taking the most appropriate actions under the principle of sound financial management.

4. Contracting Authority

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

5. Procurement Rules

The CEFTA Secretariat shall apply the procurement manual of the CEFTA Secretariat, which is aligned to the EU procurement rules.

6. Budget

The budget of the CEFTA Open Fund is a rolling budget and shall be renewed in accordance with the unutilised contributions of the CEFTA Parties recorded after each financial year based on the audit of the CEFTA Secretariat's accounts.

7. Disbursement

The disbursement of the CEFTA Open Fund shall be made according to the annual CEFTA programming priorities, except in cases of urgency, where the disbursement may be made following the prior Agreement with the Chair in Office, and later reported at the next Joint Committee meeting.

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 shall be determined in accordance with the CEFTA programming priorities

In addition to the areas and individual projects identified by the CEFTA Programming Document, the CEFTA Open Fund shall be available for financing the activities in accordance with the components in Point 9 of these Terms of Reference.

8.2. Tendering

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

No works or grants shall be financed by the Open Fund. Supplies shall be procured only in exceptional cases, notably in case such procurement is not foreseen by the CEFTA Programming Document or in line with the following components, and provided that the CEFTA Parties grant their approval.

8.3. Monitoring and Reporting

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

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

The CEFTA Secretariat shall prepare its own reports regarding the tendering, contracting, and implementation of the CEFTA Open Fund.

Ad-hoc Report: An Ad-hoc Report shall be prepared based on the request of the CEFTA Parties and shall contain the requested information.

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

8.4. Auditing

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

9. Components

Component 1: Management Advisory Service to the CEFTA Secretariat

The CEFTA Secretariat might need to procure a number of different advisory services to perform its institutional functions, such as:

Human resources: The Secretariat employs international staff with time-limited contracts. In the case of any vacancies, international recruitment tenders need to be launched, which requires the hiring of a human resources consultant, and funding the recruitment-related costs, including the advertisement of the vacancy notices in international media, if necessary, for the selection of the Director of the CEFTA Secretariat. Such costs shall be covered by the CEFTA Open Fund in order to ensure that recruitment processes are completed on time and in accordance with the established procedure.

Legal counsel: Regarding legal issues that are not directly related to the implementation of the Agreement, the CEFTA Secretariat does not have any legal counsel for the moment. However, the number of contracts that the CEFTA Secretariat is to sign continues to increase. Legal Counsel may be necessary to defend the institutional interests of the CEFTA Secretariat in any dispute that may arise with its staff, contractors, sub-contractors, and any other legal or natural person. The cost for such legal counsel shall be absorbed 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. The CEFTA Secretariat's participation at these international meetings related to the implementation of the CEFTA Agreement may be financed by the CEFTA Open Fund according to the travel

procedures of the CEFTA Secretariat and if such participation is not funded by donors or by the CEFTA Secretariat's budget, upon the approval of the Chair in Office.

The CEFTA Open Fund may be used to support some of the actions undertaken in CEFTA by the Secretariat to improve outreach to the private sector or academia in the CEFTA region. This might include preparation and publishing of printed materials, organising outreach events that are not anticipated and funded by donors or by the CEFTA Secretariat's budget.

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

The travel and accommodation costs of CEFTA Delegates, except the Joint Committee meetings, participating in the official CEFTA Structures meetings shall be payable by the CEFTA Open Fund, unless this participation is funded in accordance with the CEFTA budget or by donors other than the CEFTA Parties.

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

In 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 expertise, the CEFTA Secretariat shall allocate funds from the CEFTA Open Fund to hire technical, if necessary, assistance to conduct ad hoc monitoring regarding the implementation of those projects on its behalf, following the prior approval by the CEFTA Parties.

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

In 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, related to the components in the Open Fund, the over-expenses shall be payable from the budget of the CEFTA Open Fund, with prior approval of CEFTA Parties.

In the case the CEFTA Parties' annual contributions constitute a financing of the multiannual Grant, that covers multiannual budgetary cost of the CEFTA Secretariat, the CEFTA Secretariat shall be allowed to reallocate the structure of the budget in accordance with the structure of the Grant. The contribution to the CEFTA Open Fund, or over-expenses due by the CEFTA Open Fund shall be made upon the expiry of the Grant. The CEFTA Secretariat shall report the annual expenditures to the Joint Committee.

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

In the event over-expenditures per budget item or sub-item or components exceed 2,500 EUR per costs per budget item and sub-item or components, the payment to over-expenses shall be payable by the CEFTA Open Fund on the basis of the prior approval by the CEFTA Joint Committee.

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

Contingency Rule

In case of delays in securing financial assistance or in collecting the contributions from CEFTA Parties for the functioning of the CEFTA Secretariat, the Director of the CEFTA Secretariat shall have access to the CEFTA Open Fund to balance the operational budget of the CEFTA Secretariat for a period until the financial assistance is secured or due contributions are made. The Director of the CEFTA Secretariat shall inform the CEFTA Chair in Office in writing before accessing such contingency funds and report on such expenditures to the CEFTA Joint Committee. All funds allocated for this reason shall be reimbursed once the pending payments are executed.